Equality Act 2010

2010 CHAPTER 15

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An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics; to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be with regard to the need to eliminate discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes.

[8th April 2010]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent

Preamble: England, Wales, Scotland

PART 1

SOCIO-ECONOMIC INEQUALITIES

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Partially In Force With Amendments Pending

England

1 Public sector duty regarding socio-economic inequalities

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under subsection (1), an authority must take into account any guidance issued by a Minister of the Crown.

(3) The authorities to which this section applies are—

(a) a Minister of the Crown;
(b) a government department other than the Security Service, the Secret Intelligence Service or the Government Communications Headquarters;
(c) a county council or district council in England;
(d) the Greater London Authority;
(e) a London borough council;
(f) the Common Council of the City of London in its capacity as a local authority;
(g) the Council of the Isles of Scilly;
(h) **[…]**[1]
(i) **[…]**[2]
(j) **[…]**[3]
(k) a police authority established for an area in England.

(4)-(5) **[…]**[4]

(6) The reference to inequalities in subsection (1) does not include any inequalities experienced by a person as a result of being a person subject to immigration control within the meaning given by section 115(9) of the Immigration and Asylum Act 1999.

Notes

1 Repealed, never in force by Health and Social Care Act 2012 c. 7 Sch.5 para.181(a) (April 1, 2018: repeal came into force on April 1, 2013 as SI 2013/160 subject to savings and transitional provisions specified in SI 2013/160 arts 5-9 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

2 Repealed, never in force by Health and Social Care Act 2012 c. 7 Sch.5 para.181(b) (April 1, 2018: repeal came into force on April 1, 2013 as SI 2013/160 subject to savings and transitional provisions specified in SI 2013/160 arts 5-9 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

3 Repealed, never in force by Public Bodies Act 2011 c. 24 Sch.6 para.1 (April 1, 2018: repeal came into force on July 1, 2012 at 00.02 as SI 2012/1662 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

4 Repealed, never in force by Deregulation Act 2015 c. 20 s.100(2)(g) (April 1, 2018: repeal came into force on May 26, 2015 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

Wales

[1 Public sector duty regarding socio-economic inequalities

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under subsection (1), an authority must take into account any guidance issued by a Minister of the Crown.

(3) The authorities to which this section applies are—

(a) a Minister of the Crown;

(b) a government department other than the Security Service, the Secret Intelligence Service or the Government Communications Headquarters;

(c) a county council or district council in England;

(d) the Greater London Authority;

(e) a London borough council;

(f) the Common Council of the City of London in its capacity as a local authority;

(g) the Council of the Isles of Scilly;

(k) a police authority established for an area in England.

(3A) This section also applies to the following authorities—

(a) the Welsh Ministers;

(b) a county council or county borough council in Wales;

(c) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

(d) an NHS Trust established under section 18 of the National Health Service (Wales) Act 2006;

(e) a Special Health Authority established under section 22[2] of the National Health Service (Wales) Act 2006 other than a cross-border Special Health Authority (within the meaning of section 8A(5)[3] of the National Health Service (Wales) Act 2006);

(f) a fire and rescue authority constituted by a scheme under section 2[4] of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales;

(g) a National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales;

(h) the Welsh Revenue Authority or Awdurdod Cyllid Cymru.

(6) The reference to inequalities in subsection (1) does not include any inequalities experienced by a person as a result of being a person subject to immigration control within the meaning given by section 115(9) of the Immigration and Asylum Act 1999.

] [1]

Notes

[1] Added by Equality Act 2010 (Authorities subject to a duty regarding Socio- economic Inequalities) (Wales) Regulations 2021/295 reg.2 (March 30, 2021)

[2] Section 22(6) was omitted by paragraph 18 of Schedule 21 to the 2012 Act.

[3] Section 8A was inserted by paragraph 14 of Schedule 21 to the 2012 Act.

[4] 2004 c. 21, to which there are amendments not relevant to these Regulations.

Scotland

[1 Public sector duty regarding socio-economic inequalities

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under subsection (1), an authority must take into account any guidance issued by in accordance with subsection (2A).

[(2A) The guidance to be taken into account under subsection (2) is—

(a) in the case of a duty imposed on an authority in relation to devolved Scottish functions, guidance issued by the Scottish Ministers;

[(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers; **]** [3]

(b) in any other case, guidance issued by a Minister of the Crown.

] [2]

[(3) The authorities to which this section applies are—

(a) the Scottish Ministers;
(b) Food Standards Scotland;
(c) Keeper of the Registers of Scotland;
(d) National Records of Scotland;
(e) Revenue Scotland;
(f) Scottish Courts and Tribunals Service;
(g) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
(h) **[…]**[5]
(i) **[…]**[6]
(j) **[…]**[7]
(k) Scottish **[** police and crime commissioner **]** [8] ;
(l) Highlands and Islands Enterprise;
(m) Scottish Enterprise **[** ; **]** [9]
[(n) Scottish National Investment Bank p.l.c.;
(o) South of Scotland Enterprise. **]** [9]

] [4]

(4)-(5) **[…]**[10]

(6) The reference to inequalities in subsection (1) does not include any inequalities experienced by a person as a result of being a person subject to immigration control within the meaning given by section 115(9) of the Immigration and Asylum Act 1999.

] [1]

Notes

[1] Words substituted by Scotland Act 2016 c. 11 Pt 4 s.38(3) (April 1, 2018: substitution came into force on May 23, 2016 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70)

[2] Added by Scotland Act 2016 c. 11 Pt 4 s.38(4) (April 1, 2018: insertion came into force on May 23, 2016 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70)

[3] Added by Wales Act 2017 c. 4 Pt 2 s.45(2) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

[4] Substituted by Equality Act 2010 (Authorities subject to the Socio-economic Inequality Duty) (Scotland) Regulations 2018/101 (Scottish SI) reg.2(2) (April 1, 2018)

[5] Repealed, never in force by Health and Social Care Act 2012 c. 7 Sch.5 para.181(a) (April 1, 2018: repeal came into force on April 1, 2013 as SI 2013/160 subject to savings and transitional provisions specified in SI 2013/160 arts 5-9 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

[6] Repealed, never in force by Health and Social Care Act 2012 c. 7 Sch.5 para.181(b) (April 1, 2018: repeal came into force on April 1, 2013 as SI 2013/160 subject to savings and transitional provisions specified in SI 2013/160 arts 5-9 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

[7] Repealed, never in force by Public Bodies Act 2011 c. 24 Sch.6 para.1 (April 1, 2018: repeal came into force on July 1, 2012 at 00.02 as SI 2012/1662 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

[8] Words substituted by Police Reform and Social Responsibility Act 2011 c. 13 Sch.16(3) para.381 (April 1, 2018: substitution came into force on November 22, 2012 as SI 2012/2892 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

[9] Added by Scottish National Investment Bank p.l.c. and South of Scotland Enterprise (Miscellaneous Listings) Regulations 2020/403 (Scottish SI) reg.2(2) (November 26, 2020)

[10] Repealed, never in force by Deregulation Act 2015 c. 20 s.100(2)(g) (April 1, 2018: repeal came into force on May 26, 2015 but could not take effect until the commencement of 2010 c.15 s.1 on April 1, 2018)

Amendments Pending

Pt 1 s. 1(2): substituted by Scotland Act 2016 c. 11 Pt 4 s. 38(3) (date to be appointed: substitution came into force on May 23, 2016 but cannot take effect until the commencement of 2010 c.15 s.1 in relation to England and Wales subject to transitional provisions specified in 2016 c.11 s.70)

Pt 1 s. 1(2A): added by Scotland Act 2016 c. 11 Pt 4 s. 38(4) (Not yet in force: insertion came into force on May 23, 2016 but could not take effect until the commencement of 2010 c.15 s.1 in relation to England and Wales subject to transitional provisions specified in 2016 c.11 s.70)

Pt 1 s. 1(2A)(aa): added by Wales Act 2017 c. 4 Pt 2 s. 45(2) (date to be appointed: insertion has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Pt 1 s. 1(3)(k): words substituted by Police Reform and Social Responsibility Act 2011 c. 13 Sch. 16(3) para. 381 (Not yet in force: substitution came into force on November 22, 2012 as SI 2012/2892 but cannot take effect until the commencement of 2010 c.15 s.1 in relation to England and Wales)

Commencement

Pt 1 s. 1(1)-(6): April 1, 2018 in relation to Scotland; March 31, 2021 in relation to Wales for purposes specified in SI 2021/298 art.2(a); not yet in force otherwise (SSI 2017/403 art. 2(1)(a); SI 2021/298 art. 2(a))

Pt 1 s. 1(4)-(5) definition of "sustainable community strategy": Date to be appointed (not yet in force)

Extent

Pt 1 s. 1(1)-(5) definition of "sustainable community strategy": England, Wales, Scotland

Partially In Force

2 Power to amend section 1

(1) A Minister of the Crown may by regulations amend section 1 so as to—

(a) add a public authority to the authorities that are subject to the duty under subsection (1) of that section;

(b) remove an authority from those that are subject to the duty;

(c) make the duty apply, in the case of a particular authority, only in relation to certain functions that it has;

(d) in the case of an authority to which the application of the duty is already restricted to certain functions, remove or alter the restriction.

(2) In subsection (1) "public authority" means an authority that has functions of a public nature.

(3) Provision made under subsection (1) may not impose a duty on an authority in relation to any devolved Scottish functions or devolved Welsh functions.

(4) The Scottish Ministers or the Welsh Ministers may by regulations amend section 1 so as to—

(a) add a relevant authority to the authorities that are subject to the duty under subsection (1) of that section;

(b) remove a relevant authority from those that are subject to the duty;

(c) make the duty apply, in the case of a particular relevant authority, only in relation to certain functions that it has;

(d) in the case of a relevant authority to which the application of the duty is already restricted to certain functions, remove or alter the restriction.

(5) For the purposes of the power conferred by subsection (4) on the Scottish Ministers, "relevant authority" means an authority whose functions—

(a) are exercisable only in or as regards Scotland,

(b) are wholly or mainly devolved Scottish functions, and

(c) correspond or are similar to those of an authority for the time being specified in section 1(3).

(6) For the purposes of the power conferred by subsection (4) on the Welsh Ministers, "relevant authority" means **[** a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) whose functions correspond or are similar to those of an authority for the time being specified in subsection (3) of section 1 or referred to in subsection (4) of that section. **]** [1]

(7) **[…]**[2]

(8) Regulations under this section may make any amendments of section 1 that appear to the Minister or Ministers to be necessary or expedient in consequence of provision made under subsection (1) or (as the case may be) subsection (4).

(9)-(10) **[…]**[2]

(11) For the purposes of this **[** Part **]** [3] —

(a) a function is a devolved Scottish function if it is exercisable in or as regards Scotland and it does not relate to reserved matters (within the meaning of the Scotland Act 1998) **[.]** [4]
(b) **[…]**[4]

Notes

1 Words substituted for words and s.2(6)(a)-(c) by Wales Act 2017 c. 4 Sch.6(3) para.83(2) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(r) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

2 Repealed by Wales Act 2017 c. 4 Pt 2 s.45(3) (April 1, 2018: repeal has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

3 Word substituted by Scotland Act 2016 c. 11 Pt 4 s.38(8) (April 1, 2018: substitution came into force on May 23, 2016 but could not take effect until the commencement of 2010 c.15 s.2 on April 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70)

4 Repealed by Wales Act 2017 c. 4 Sch.6(3) para.83(3) (April 1, 2018: repeal has effect as SI 2017/1179 reg.3(r) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 1 s. 2(1)-(11)(b): April 1, 2018 in so far as it confers a power on the Scottish Ministers; November 22, 2019 in so far as it confers a power on the Welsh Ministers; not yet in force otherwise (SSI 2017/403 art. 2(1)(b); SI 2019/1469 art. 2)

Extent

Pt 1 s. 2-(11)(b): England, Wales, Scotland

Partially In Force

3 Enforcement

A failure in respect of a performance of a duty under section 1 does not confer a cause of action at private law.

Commencement

Pt 1 s. 3: April 1, 2018 in relation to Scotland; March 31, 2021 in relation to Wales for purposes specified in SI 2021/298 art.2(b); not yet in force otherwise (SSI 2017/403 art. 2(1)(c); SI 2021/298 art. 2(b))

Extent

Pt 1 s. 3: England, Wales, Scotland

PART 2

EQUALITY: KEY CONCEPTS

CHAPTER 1

PROTECTED CHARACTERISTICS

Law In Force

4 The protected characteristics

The following characteristics are protected characteristics—

age;
disability;
gender reassignment;
marriage and civil partnership;
pregnancy and maternity;
race;
religion or belief;
sex;
sexual orientation.

Commencement

Pt 2 c. 1 s. 4: October 1, 2010 (SI 2010/2317 art. 2(2)(a))

Extent

Pt 2 c. 1 s. 4: England, Wales, Scotland

Law In Force

5 Age

(1) In relation to the protected characteristic of age—

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same age group.

(2) A reference to an age group is a reference to a group of persons defined by reference to age, whether by reference to a particular age or to a range of ages.

Commencement

Pt 2 c. 1 s. 5(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(2)(a))

Extent

Pt 2 c. 1 s. 5(1)-(2): England, Wales, Scotland

Law In Force

6 Disability

(1) A person (P) has a disability if—

(a) P has a physical or mental impairment, and

(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.

(2) A reference to a disabled person is a reference to a person who has a disability.

(3) In relation to the protected characteristic of disability—

(a) a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;

(b) a reference to persons who share a protected characteristic is a reference to persons who have the same disability.

(4) This Act (except Part 12 and section 190) applies in relation to a person who has had a disability as it applies in relation to a person who has the disability; accordingly (except in that Part and that section)—

(a) a reference (however expressed) to a person who has a disability includes a reference to a person who has had the disability, and

(b) a reference (however expressed) to a person who does not have a disability includes a reference to a person who has not had the disability.

(5) A Minister of the Crown may issue guidance about matters to be taken into account in deciding any question for the purposes of subsection (1).

(6) Schedule 1 (disability: supplementary provision) has effect.

Commencement

Pt 2 c. 1 s. 6(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(b))

Pt 2 c. 1 s. 6(5): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(b))

Pt 2 c. 1 s. 6(6): August 4, 2010 for provisions specified in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(i); SI 2010/2317 art. 2(2)(b))

Extent

Pt 2 c. 1 s. 6(1)-(6): England, Wales, Scotland

Law In Force

7 Gender reassignment

(1) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

(2) A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.

(3) In relation to the protected characteristic of gender reassignment—

(a) a reference to a person who has a particular protected characteristic is a reference to a transsexual person;

(b) a reference to persons who share a protected characteristic is a reference to transsexual persons.

Commencement

Pt 2 c. 1 s. 7(1)-(3)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 7(1)-(3)(b): England, Wales, Scotland

Law In Force

8 Marriage and civil partnership

(1) A person has the protected characteristic of marriage and civil partnership if the person is married or is a civil partner.

(2) In relation to the protected characteristic of marriage and civil partnership—

(a) a reference to a person who has a particular protected characteristic is a reference to a person who is married or is a civil partner;

(b) a reference to persons who share a protected characteristic is a reference to persons who are married or are civil partners.

Commencement

Pt 2 c. 1 s. 8(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 8(1)-(2)(b): England, Wales, Scotland

Law In Force

9 Race

(1) Race includes—

(a) colour;

(b) nationality;

(c) ethnic or national origins.

(2) In relation to the protected characteristic of race—

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular racial group;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same racial group.

(3) A racial group is a group of persons defined by reference to race; and a reference to a person's racial group is a reference to a racial group into which the person falls.

(4) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group.

(5) A Minister of the Crown **[…]**[1] —

(a) **[** must by order **]**[2] amend this section so as to provide for caste to be an aspect of race;

(b) **[** may by order **]**[3] amend this Act so as to provide for an exception to a provision of this Act to apply, or not to apply, to caste or to apply, or not to apply, to caste in specified circumstances.

(6) The power under section 207(4)(b), in its application to subsection (5), includes power to amend this Act.

Notes

[1] Words repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.97(2) (June 25, 2013)

[2] Words inserted by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.97(3) (June 25, 2013)

[3] Words inserted by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.97(4) (June 25, 2013)

Commencement

Pt 2 c. 1 s. 9(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 9(1)-(6): England, Wales, Scotland

Law In Force

10 Religion or belief

(1) Religion means any religion and a reference to religion includes a reference to a lack of religion.

(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

(3) In relation to the protected characteristic of religion or belief—

(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;

(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.

Commencement

Pt 2 c. 1 s. 10(1)-(3)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 10(1)-(3)(b): England, Wales, Scotland

Law In Force

11 Sex

In relation to the protected characteristic of sex—

(a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.

Commencement

Pt 2 c. 1 s. 11(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 11(a)-(b): England, Wales, Scotland

Law In Force

12 Sexual orientation

(1) Sexual orientation means a person's sexual orientation towards—

(a) persons of the same sex,

(b) persons of the opposite sex, or

(c) persons of either sex.

(2) In relation to the protected characteristic of sexual orientation—

(a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;

(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

Commencement

Pt 2 c. 1 s. 12(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 1 s. 12(1)-(2)(b): England, Wales, Scotland

CHAPTER 2

PROHIBITED CONDUCT

Discrimination

Law In Force

13 Direct discrimination

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

(2) If the protected characteristic is age, A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.

(3) If the protected characteristic is disability, and B is not a disabled person, A does not discriminate against B only because A treats or would treat disabled persons more favourably than A treats B.

(4) If the protected characteristic is marriage and civil partnership, this section applies to a contravention of Part 5 (work) only if the treatment is because it is B who is married or a civil partner.

(5) If the protected characteristic is race, less favourable treatment includes segregating B from others.

(6) If the protected characteristic is sex—

(a) less favourable treatment of a woman includes less favourable treatment of her because she is breast-feeding;

(b) in a case where B is a man, no account is to be taken of special treatment afforded to a woman in connection with pregnancy or childbirth.

(7) Subsection (6)(a) does not apply for the purposes of Part 5 (work).

(8) This section is subject to sections 17(6) and 18(7).

Commencement

Pt 2 c. 2 s. 13(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(2)(c))

Extent

Pt 2 c. 2 s. 13(1)-(8): England, Wales, Scotland

Not Yet In Force

14 Combined discrimination: dual characteristics

(1) A person (A) discriminates against another (B) if, because of a combination of two relevant protected characteristics, A treats B less favourably than A treats or would treat a person who does not share either of those characteristics.

(2) The relevant protected characteristics are—

(a) age;

(b) disability;

(c) gender reassignment;

(d) race

(e) religion or belief;

(f) sex;

(g) sexual orientation.

(3) For the purposes of establishing a contravention of this Act by virtue of subsection (1), B need not show that A's treatment of B is direct discrimination because of each of the characteristics in the combination (taken separately).

(4) But B cannot establish a contravention of this Act by virtue of subsection (1) if, in reliance on another provision of this Act or any other enactment, A shows that A's treatment of B is not direct discrimination because of either or both of the characteristics in the combination.

(5) Subsection (1) does not apply to a combination of characteristics that includes disability in circumstances where, if a claim of direct discrimination because of disability were to be brought, it would come within section 116 (special educational needs).

(6) A Minister of the Crown may by order amend this section so as to—

(a) make further provision about circumstances in which B can, or in which B cannot, establish a contravention of this Act by virtue of subsection (1);

(b) specify other circumstances in which subsection (1) does not apply.

(7) The references to direct discrimination are to a contravention of this Act by virtue of section 13.

Commencement

Pt 2 c. 2 s. 14(1)-(7): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 2 c. 2 s. 14(1)-(7): England, Wales, Scotland

Law In Force

15 Discrimination arising from disability

(1) A person (A) discriminates against a disabled person (B) if—

(a) A treats B unfavourably because of something arising in consequence of B's disability, and

(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

Commencement

Pt 2 c. 2 s. 15(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 15(1)-(2): England, Wales, Scotland

Law In Force

16 Gender reassignment discrimination: cases of absence from work

(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of gender reassignment.

(2) A person (A) discriminates against a transsexual person (B) if, in relation to an absence of B's that is because of gender reassignment, A treats B less favourably than A would treat B if—

(a) B's absence was because of sickness or injury, or

(b) B's absence was for some other reason and it is not reasonable for B to be treated less favourably.

(3) A person's absence is because of gender reassignment if it is because the person is proposing to undergo, is undergoing or has undergone the process (or part of the process) mentioned in section 7(1).

Commencement

Pt 2 c. 2 s. 16(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 16(1)-(3): England, Wales, Scotland

Law In Force

17 Pregnancy and maternity discrimination: non-work cases

(1) This section has effect for the purposes of the application to the protected characteristic of pregnancy and maternity of—

(a) Part 3 (services and public functions);

(b) Part 4 (premises);

(c) Part 6 (education);

(d) Part 7 (associations).

(2) A person (A) discriminates against a woman if A treats her unfavourably because of a pregnancy of hers.

(3) A person (A) discriminates against a woman if, in the period of 26 weeks beginning with the day on which she gives birth, A treats her unfavourably because she has given birth.

(4) The reference in subsection (3) to treating a woman unfavourably because she has given birth includes, in particular, a reference to treating her unfavourably because she is breast-feeding.

(5) For the purposes of this section, the day on which a woman gives birth is the day on which—

(a) she gives birth to a living child, or

(b) she gives birth to a dead child (more than 24 weeks of the pregnancy having passed).

(6) Section 13, so far as relating to sex discrimination, does not apply to anything done in relation to a woman in so far as—

(a) it is for the reason mentioned in subsection (2), or

(b) it is in the period, and for the reason, mentioned in subsection (3).

Commencement

Pt 2 c. 2 s. 17(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 17(1)-(6)(b): England, Wales, Scotland

Law In Force

18 Pregnancy and maternity discrimination: work cases

(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of pregnancy and maternity.

(2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably—

(a) because of the pregnancy, or

(b) because of illness suffered by her as a result of it.

(3) A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave.

(4) A person (A) discriminates against a woman if A treats her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.

(5) For the purposes of subsection (2), if the treatment of a woman is in implementation of a decision taken in the protected period, the treatment is to be regarded as occurring in that period (even if the implementation is not until after the end of that period).

(6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends—

(a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;

(b) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.

(7) Section 13, so far as relating to sex discrimination, does not apply to treatment of a woman in so far as—

(a) it is in the protected period in relation to her and is for a reason mentioned in paragraph (a) or (b) of subsection (2), or

(b) it is for a reason mentioned in subsection (3) or (4).

Commencement

Pt 2 c. 2 s. 18(1)-(7)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 18(1)-(7)(b): England, Wales, Scotland

Law In Force

19 Indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are—

age;
disability;
gender reassignment;
marriage and civil partnership;
race;
religion or belief;
sex;
sexual orientation.

Commencement

Pt 2 c. 2 s. 19(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 19(1)-(3): England, Wales, Scotland

Adjustments for disabled persons

Law In Force

20 Duty to make adjustments

(1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

(2) The duty comprises the following three requirements.

(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

(6) Where the first or third requirement relates to the provision of information, the steps which it is reasonable for A to have to take include steps for ensuring that in the circumstances concerned the information is provided in an accessible format.

(7) A person (A) who is subject to a duty to make reasonable adjustments is not (subject to express provision to the contrary) entitled to require a disabled person, in relation to whom A is required to comply with the duty, to pay to any extent A's costs of complying with the duty.

(8) A reference in section 21 or 22 or an applicable Schedule to the first, second or third requirement is to be construed in accordance with this section.

(9) In relation to the second requirement, a reference in this section or an applicable Schedule to avoiding a substantial disadvantage includes a reference to—

(a) removing the physical feature in question,
(b) altering it, or
(c) providing a reasonable means of avoiding it.

(10) A reference in this section, section 21 or 22 or an applicable Schedule (apart from paragraphs 2 to 4 of Schedule 4) to a physical feature is a reference to—

(a) a feature arising from the design or construction of a building,
(b) a feature of an approach to, exit from or access to a building,
(c) a fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises, or
(d) any other physical element or quality.

(11) A reference in this section, section 21 or 22 or an applicable Schedule to an auxiliary aid includes a reference to an auxiliary service.

(12) A reference in this section or an applicable Schedule to chattels is to be read, in relation to Scotland, as a reference to moveable property.

(13) The applicable Schedule is, in relation to the Part of this Act specified in the first column of the Table, the Schedule specified in the second column.

Part of this Act	***Applicable Schedule***
Part 3 (services and public functions)	Schedule 2
Part 4 (premises)	Schedule 4
Part 5 (work)	Schedule 8
Part 6 (education)	Schedule 13
Part 7 (associations)	Schedule 15
Each of the Parts mentioned above	Schedule 21

Commencement

Pt 2 c. 2 s. 20(1)-(13): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 20(1)-(13): England, Wales, Scotland

Law In Force

21 Failure to comply with duty

(1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.

(2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.

(3) A provision of an applicable Schedule which imposes a duty to comply with the first, second or third requirement applies only for the purpose of establishing whether A has contravened this Act by virtue of subsection (2); a failure to comply is, accordingly, not actionable by virtue of another provision of this Act or otherwise.

Commencement

Pt 2 c. 2 s. 21(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(2)(d))

Extent

Pt 2 c. 2 s. 21(1)-(3): England, Wales, Scotland

Law In Force

22 Regulations

(1) Regulations may prescribe—

(a) matters to be taken into account in deciding whether it is reasonable for A to take a step for the purposes of a prescribed provision of an applicable Schedule;

(b) descriptions of persons to whom the first, second or third requirement does not apply.

(2) Regulations may make provision as to—

(a) circumstances in which it is, or in which it is not, reasonable for a person of a prescribed description to have to take steps of a prescribed description;

(b) what is, or what is not, a provision, criterion or practice;

(c) things which are, or which are not, to be treated as physical features;

(d) things which are, or which are not, to be treated as alterations of physical features;

(e) things which are, or which are not, to be treated as auxiliary aids.

(3) Provision made by virtue of this section may amend an applicable Schedule.

Commencement

Pt 2 c. 2 s. 22(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(e))

Extent

Pt 2 c. 2 s. 22-(3): England, Wales, Scotland

Discrimination: supplementary

Law In Force

23 Comparison by reference to circumstances

(1) On a comparison of cases for the purposes of section 13, 14, or 19 there must be no material difference between the circumstances relating to each case.

(2) The circumstances relating to a case include a person's abilities if—

(a) on a comparison for the purposes of section 13, the protected characteristic is disability;

(b) on a comparison for the purposes of section 14, one of the protected characteristics in the combination is disability.

(3) If the protected characteristic is sexual orientation, the fact that one person (whether or not the person referred to as B) is a civil partner while another is married **[…]**[1] is not a material difference between the circumstances relating to each case.

[(4) If the protected characteristic is sexual orientation, the fact that one person (whether or not the person referred to as B) is married to **[** , or the civil partner of, **]**[3] a person of the same sex while another is married to **[** , or the civil partner of, **]**[3] a person of the opposite sex is not a material difference between the circumstances relating to each case. **]**[2]

Notes

1 Words repealed by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(2)(a) (December 2, 2019)

2 Added by Marriage (Same Sex Couples) Act 2013 c. 30 Sch.7(2) para.43(3) (March 13, 2014: insertion has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

3 Words inserted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(2)(b) (December 2, 2019)

Commencement

Pt 2 c. 2 s. 23(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(2)(f))

Extent

Pt 2 c. 2 s. 23(1)-(4): England, Wales, Scotland

Law In Force

24 Irrelevance of alleged discriminator's characteristics

(1) For the purpose of establishing a contravention of this Act by virtue of section 13(1), it does not matter whether A has the protected characteristic.

(2) For the purpose of establishing a contravention of this Act by virtue of section 14(1), it does not matter—

(a) whether A has one of the protected characteristics in the combination;

(b) whether A has both.

Commencement

Pt 2 c. 2 s. 24(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(f))

Extent

Pt 2 c. 2 s. 24(1)-(2)(b): England, Wales, Scotland

Law In Force

25 References to particular strands of discrimination

(1) Age discrimination is—

(a) discrimination within section 13 because of age;

(b) discrimination within section 19 where the relevant protected characteristic is age.

(2) Disability discrimination is—

(a) discrimination within section 13 because of disability;

(b) discrimination within section 15;

(c) discrimination within section 19 where the relevant protected characteristic is disability;

(d) discrimination within section 21.

(3) Gender reassignment discrimination is—

(a) discrimination within section 13 because of gender reassignment;

(b) discrimination within section 16;

(c) discrimination within section 19 where the relevant protected characteristic is gender reassignment.

(4) Marriage and civil partnership discrimination is—

(a) discrimination within section 13 because of marriage and civil partnership;

(b) discrimination within section 19 where the relevant protected characteristic is marriage and civil partnership.

(5) Pregnancy and maternity discrimination is discrimination within section 17 or 18.

(6) Race discrimination is—

(a) discrimination within section 13 because of race;

(b) discrimination within section 19 where the relevant protected characteristic is race.

(7) Religious or belief-related discrimination is—

(a) discrimination within section 13 because of religion or belief;

(b) discrimination within section 19 where the relevant protected characteristic is religion or belief.

(8) Sex discrimination is—

(a) discrimination within section 13 because of sex;

(b) discrimination within section 19 where the relevant protected characteristic is sex.

(9) Sexual orientation discrimination is—

(a) discrimination within section 13 because of sexual orientation;

(b) discrimination within section 19 where the relevant protected characteristic is sexual orientation.

Commencement

Pt 2 c. 2 s. 25(1)-(9)(b): October 1, 2010 (SI 2010/2317 art. 2(2)(f))

Extent

Pt 2 c. 2 s. 25(1)-(9)(b): England, Wales, Scotland

Other prohibited conduct

Law In Force

26 Harassment

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) A also harasses B if—

(a) A engages in unwanted conduct of a sexual nature, and

(b) the conduct has the purpose or effect referred to in subsection (1)(b).

(3) A also harasses B if—

(a) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,

(b) the conduct has the purpose or effect referred to in subsection (1)(b), and

(c) because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

(5) The relevant protected characteristics are—

age;
disability;
gender reassignment;
race;
religion or belief;
sex;
sexual orientation.

Commencement

Pt 2 c. 2 s. 26(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(2)(f))

Extent

Pt 2 c. 2 s. 26(1)-(5): England, Wales, Scotland

Law In Force

27 Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or
(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) bringing proceedings under this Act;
(b) giving evidence or information in connection with proceedings under this Act;
(c) doing any other thing for the purposes of or in connection with this Act;
(d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

(5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

Commencement

Pt 2 c. 2 s. 27(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(2)(f))

Extent

Pt 2 c. 2 s. 27(1)-(5): England, Wales, Scotland

PART 3

SERVICES AND PUBLIC FUNCTIONS

Preliminary

Law In Force

28 Application of this Part

(1) This Part does not apply to the protected characteristic of—

(a) age, so far as relating to persons who have not attained the age of 18;

(b) marriage and civil partnership.

(2) This Part does not apply to discrimination, harassment or victimisation—

(a) that is prohibited by Part 4 (premises), 5 (work) or 6 (education), or

(b) that would be so prohibited but for an express exception.

(3) This Part does not apply to—

(a) a breach of an equality clause or rule;

(b) anything that would be a breach of an equality clause or rule but for section 69 or Part 2 of Schedule 7;

(c) a breach of a non-discrimination rule.

Commencement

Pt 3 s. 28(1)-(3)(c): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(a); SI 2012/2184 art. 2(a))

Extent

Pt 3 s. 28-(3)(c): England, Wales, Scotland

Provision of services, etc.

Law In Force

29 Provision of services, etc.

(1) A person (a "service-provider") concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by terminating the provision of the service to B;

(c) by subjecting B to any other detriment.

(3) A service-provider must not, in relation to the provision of the service, harass—
(a) a person requiring the service, or
(b) a person to whom the service-provider provides the service.

(4) A service-provider must not victimise a person requiring the service by not providing the person with the service.

(5) A service-provider (A) must not, in providing the service, victimise a person (B)—
(a) as to the terms on which A provides the service to B;
(b) by terminating the provision of the service to B;
(c) by subjecting B to any other detriment.

(6) A person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes discrimination, harassment or victimisation.

(7) A duty to make reasonable adjustments applies to—
(a) a service-provider (and see also section 55(7));
(b) a person who exercises a public function that is not the provision of a service to the public or a section of the public.

(8) In the application of section 26 for the purposes of subsection (3), and subsection (6) as it relates to harassment, neither of the following is a relevant protected characteristic—
(a) religion or belief;
(b) sexual orientation.

(9) In the application of this section, so far as relating to race or religion or belief, to the granting of entry clearance (within the meaning of the Immigration Act 1971), it does not matter whether an act is done within or outside the United Kingdom.

(10) Subsection (9) does not affect the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Commencement

Pt 3 s. 29(1)-(10): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(a); SI 2012/2184 art. 2(a))

Extent

Pt 3 s. 29-(10): England, Wales, Scotland

Supplementary

Law In Force

30 Ships and hovercraft

(1) This Part (subject to subsection (2)) applies only in such circumstances as are prescribed in relation to—

(a) transporting people by ship or hovercraft;
(b) a service provided on a ship or hovercraft.

(2) Section 29(6) applies in relation to the matters referred to in paragraphs (a) and (b) of subsection (1); but in so far as it relates to disability discrimination, section 29(6) applies to those matters only in such circumstances as are prescribed.

(3) It does not matter whether the ship or hovercraft is within or outside the United Kingdom.

(4) "Ship" has the same meaning as in the Merchant Shipping Act 1995.

(5) "Hovercraft" has the same meaning as in the Hovercraft Act 1968.

(6) Nothing in this section affects the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Commencement

Pt 3 s. 30(1)-(6): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(a); SI 2012/2184 art. 2(a))

Extent

Pt 3 s. 30-(6): England, Wales, Scotland

Law In Force

31 Interpretation and exceptions

(1) This section applies for the purposes of this Part.

(2) A reference to the provision of a service includes a reference to the provision of goods or facilities.

(3) A reference to the provision of a service includes a reference to the provision of a service in the exercise of a public function.

(4) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

(5) Where an employer arranges for another person to provide a service only to the employer's employees—

(a) the employer is not to be regarded as the service-provider, but
(b) the employees are to be regarded as a section of the public.

(6) A reference to a person requiring a service includes a reference to a person who is seeking to obtain or use the service.

(7) A reference to a service-provider not providing a person with a service includes a reference to—

(a) the service-provider not providing the person with a service of the quality that the service-provider usually provides to the public (or the section of it which includes the person), or

(b) the service-provider not providing the person with the service in the manner in which, or on the terms on which, the service-provider usually provides the service to the public (or the section of it which includes the person).

(8) In relation to the provision of a service by either House of Parliament, the service-provider is the Corporate Officer of the House concerned; and if the service involves access to, or use of, a place in the Palace of Westminster which members of the public are allowed to enter, both Corporate Officers are jointly the service-provider.

(9) Schedule 2 (reasonable adjustments) has effect.

(10) Schedule 3 (exceptions) has effect.

Commencement

Pt 3 s. 31(1)-(10): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(a); SI 2012/2184 art. 2(a))

Extent

Pt 3 s. 31-(10): England, Wales, Scotland

PART 4

PREMISES

Preliminary

Law In Force

32 Application of this Part

(1) This Part does not apply to the following protected characteristics—

(a) age;

(b) marriage and civil partnership.

(2) This Part does not apply to discrimination, harassment or victimisation—

(a) that is prohibited by Part 5 (work) or Part 6 (education), or

(b) that would be so prohibited but for an express exception.

(3) This Part does not apply to the provision of accommodation if the provision—

(a) is generally for the purpose of short stays by individuals who live elsewhere, or

(b) is for the purpose only of exercising a public function or providing a service to the public or a section of the public.

(4) The reference to the exercise of a public function, and the reference to the provision of a service, are to be construed in accordance with Part 3.

(5) This Part does not apply to—

(a) a breach of an equality clause or rule;

(b) anything that would be a breach of an equality clause or rule but for section 69 or Part 2 of Schedule 7;

(c) a breach of a non-discrimination rule.

Commencement

Pt 4 s. 32(1)-(5)(c): October 1, 2010 (SI 2010/2317 art. 2(4)(a))

Extent

Pt 4 s. 32(1)-(5)(c): England, Wales, Scotland

Disposal and management

Law In Force

33 Disposals, etc.

(1) A person (A) who has the right to dispose of premises must not discriminate against another (B)—

(a) as to the terms on which A offers to dispose of the premises to B;

(b) by not disposing of the premises to B;

(c) in A's treatment of B with respect to things done in relation to persons seeking premises.

(2) Where an interest in a commonhold unit cannot be disposed of unless a particular person is a party to the disposal, that person must not discriminate against a person by not being a party to the disposal.

(3) A person who has the right to dispose of premises must not, in connection with anything done in relation to their occupation or disposal, harass—

(a) a person who occupies them;

(b) a person who applies for them.

(4) A person (A) who has the right to dispose of premises must not victimise another (B)—

(a) as to the terms on which A offers to dispose of the premises to B;

(b) by not disposing of the premises to B;

(c) in A's treatment of B with respect to things done in relation to persons seeking premises.

(5) Where an interest in a commonhold unit cannot be disposed of unless a particular person is a party to the disposal, that person must not victimise a person by not being a party to the disposal.

(6) In the application of section 26 for the purposes of subsection (3), neither of the following is a relevant protected characteristic—

(a) religion or belief;

(b) sexual orientation.

Commencement

Pt 4 s. 33(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(4)(a))

Extent

Pt 4 s. 33(1)-(6)(b): England, Wales, Scotland

Law In Force

34 Permission for disposal

(1) A person whose permission is required for the disposal of premises must not discriminate against another by not giving permission for the disposal of the premises to the other.

(2) A person whose permission is required for the disposal of premises must not, in relation to an application for permission to dispose of the premises, harass a person—

(a) who applies for permission to dispose of the premises, or

(b) to whom the disposal would be made if permission were given.

(3) A person whose permission is required for the disposal of premises must not victimise another by not giving permission for the disposal of the premises to the other.

(4) In the application of section 26 for the purposes of subsection (2), neither of the following is a relevant protected characteristic—

(a) religion or belief;

(b) sexual orientation.

(5) This section does not apply to anything done in the exercise of a judicial function.

Commencement

Pt 4 s. 34(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(4)(a))

Extent

Pt 4 s. 34(1)-(5): England, Wales, Scotland

Law In Force

35 Management

(1) A person (A) who manages premises must not discriminate against a person (B) who occupies the premises—

(a) in the way in which A allows B, or by not allowing B, to make use of a benefit or facility;

(b) by evicting B (or taking steps for the purpose of securing B's eviction);

(c) by subjecting B to any other detriment.

(2) A person who manages premises must not, in relation to their management, harass—

(a) a person who occupies them;

(b) a person who applies for them.

(3) A person (A) who manages premises must not victimise a person (B) who occupies the premises—

(a) in the way in which A allows B, or by not allowing B, to make use of a benefit or facility;

(b) by evicting B (or taking steps for the purpose of securing B's eviction);

(c) by subjecting B to any other detriment.

(4) In the application of section 26 for the purposes of subsection (2), neither of the following is a relevant protected characteristic—

(a) religion or belief;

(b) sexual orientation.

Commencement

Pt 4 s. 35(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(4)(a))

Extent

Pt 4 s. 35(1)-(4)(b): England, Wales, Scotland

Reasonable adjustments

Partially In Force

36 Leasehold and commonhold premises and common parts

(1) A duty to make reasonable adjustments applies to—

(a) a controller of let premises;

(b) a controller of premises to let;

(c) a commonhold association;

(d) a responsible person in relation to common parts.

(2) A controller of let premises is—

(a) a person by whom premises are let, or

(b) a person who manages them.

(3) A controller of premises to let is—

(a) a person who has premises to let, or

(b) a person who manages them.

(4) The reference in subsection (1)(c) to a commonhold association is a reference to the association in its capacity as the person who manages a commonhold unit.

(5) A responsible person in relation to common parts is—

(a) where the premises to which the common parts relate are let (and are not part of commonhold land or in Scotland), a person by whom the premises are let;

(b) where the premises to which the common parts relate are part of commonhold land, the commonhold association.

(6) Common parts are—

(a) in relation to let premises (which are not part of commonhold land or in Scotland), the structure and exterior of, and any common facilities within or used in connection with, the building or part of a building which includes the premises;

(b) in relation to commonhold land, every part of the commonhold which is not for the time being a commonhold unit in accordance with the commonhold community statement.

(7) A reference to letting includes a reference to sub-letting; and for the purposes of subsection (1)(a) and (b), a reference to let premises includes premises subject to a right to occupy.

(8) This section does not apply to premises of such description as may be prescribed.

Commencement

Pt 4 s. 36(1)-(1)(c), (2)-(4), (7)-(8): October 1, 2010

Pt 4 s. 36(1)(d), (5)-(6)(b): Date to be appointed (not yet in force)

Extent

Pt 4 s. 36(1)-(8): England, Wales, Scotland

Law In Force

37 Adjustments to common parts in Scotland

(1) The Scottish Ministers may by regulations provide that a disabled person is entitled to make relevant adjustments to common parts in relation to premises in Scotland.

(2) The reference in subsection (1) to a disabled person is a reference to a disabled person who—

(a) is a tenant of the premises,

(b) is an owner of the premises, or

(c) is otherwise entitled to occupy the premises,

and uses or intends to use the premises as the person's only or main home.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult a Minister of the Crown.

(4) Regulations under subsection (1) may, in particular—

(a) prescribe things which are, or which are not, to be treated as relevant adjustments;

(b) prescribe circumstances in which the consent of an owner of the common parts is required before a disabled person may make an adjustment;

(c) provide that the consent to adjustments is not to be withheld unreasonably;

(d) prescribe matters to be taken into account, or to be disregarded, in deciding whether it is reasonable to consent to adjustments;

(e) prescribe circumstances in which consent to adjustments is to be taken to be withheld;

(f) make provision about the imposition of conditions on consent to adjustments;

(g) make provision as to circumstances in which the sheriff may make an order authorising a disabled person to carry out adjustments;

(h) make provision about the responsibility for costs arising (directly or indirectly) from an adjustment;

(i) make provision about the reinstatement of the common parts to the condition they were in before an adjustment was made;
(j) make provision about the giving of notice to the owners of the common parts and other persons;
(k) make provision about agreements between a disabled person and an owner of the common parts;
(l) make provision about the registration of information in the Land Register of Scotland or the recording of documents in the Register of Sasines relating to an entitlement of a disabled person or an obligation on an owner of the common parts;
(m) make provision about the effect of such registration or recording;
(n) make provision about who is to be treated as being, or as not being, a person entitled to occupy premises otherwise than as tenant or owner.

(5) In this section—
"common parts" means, in relation to premises, the structure and exterior of, and any common facilities within or used in connection with, the building or part of a building which includes the premises but only in so far as the structure, exterior and common facilities are not solely owned by the owner of the premises;
"relevant adjustments" means, in relation to a disabled person, alterations or additions which are likely to avoid a substantial disadvantage to which the disabled person is put in using the common parts in comparison with persons who are not disabled.

Commencement

Pt 4 s. 37(1)-(5) definition of "relevant adjustments": July 11, 2011 (SI 2011/1636 art. 2(a))

Extent

Pt 4 s. 37(1)-(5) definition of "relevant adjustments": England, Wales, Scotland

Supplementary

Partially In Force

38 Interpretation and exceptions

(1) This section applies for the purposes of this Part.

(2) A reference to premises is a reference to the whole or part of the premises.

(3) A reference to disposing of premises includes, in the case of premises subject to a tenancy, a reference to—
(a) assigning the premises,
(b) sub-letting them, or
(c) parting with possession of them.

(4) A reference to disposing of premises also includes a reference to granting a right to occupy them.

(5) A reference to disposing of an interest in a commonhold unit includes a reference to creating an interest in a commonhold unit.

(6) A reference to a tenancy is to a tenancy created (whether before or after the passing of this Act)—

(a) by a lease or sub-lease,
(b) by an agreement for a lease or sub-lease,
(c) by a tenancy agreement, or
(d) in pursuance of an enactment,

and a reference to a tenant is to be construed accordingly.

(7) A reference to commonhold land, a commonhold association, a commonhold community statement, a commonhold unit or a unit-holder is to be construed in accordance with the Commonhold and Leasehold Reform Act 2002.

(8) Schedule 4 (reasonable adjustments) has effect.

(9) Schedule 5 (exceptions) has effect.

Commencement

Pt 4 s. 38(1)-(5), (7), (9): October 1, 2010 (SI 2010/2317 art. 2(4)(c))

Pt 4 s. 38(6)-(6)(d): September 1, 2010 (SI 2010/2317 art. 2(4)(c))

Pt 4 s. 38(8): August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 for provisions specified in SI 2010/2317 art.2(4)(e); not yet in force otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(ii); SI 2010/2317 art. 2(4)(d), art. 2(4)(e))

Extent

Pt 4 s. 38(1)-(9): England, Wales, Scotland

PART 5

WORK

CHAPTER 1

EMPLOYMENT, ETC.

Employees

Law In Force

39 Employees and applicants

(1) An employer (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding to whom to offer employment;

(b) as to the terms on which A offers B employment;

(c) by not offering B employment.

(2) An employer (A) must not discriminate against an employee of A's (B)—

(a) as to B's terms of employment;

(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;

(c) by dismissing B;

(d) by subjecting B to any other detriment.

(3) An employer (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding to whom to offer employment;

(b) as to the terms on which A offers B employment;

(c) by not offering B employment.

(4) An employer (A) must not victimise an employee of A's (B)—

(a) as to B's terms of employment;

(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for any other benefit, facility or service;

(c) by dismissing B;

(d) by subjecting B to any other detriment.

(5) A duty to make reasonable adjustments applies to an employer.

(6) Subsection (1)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—

(a) unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or

(b) if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (1)(b) by virtue of section 13, 14 or 18.

(7) In subsections (2)(c) and (4)(c), the reference to dismissing B includes a reference to the termination of B's employment—

(a) by the expiry of a period (including a period expiring by reference to an event or circumstance);

(b) by an act of B's (including giving notice) in circumstances such that B is entitled, because of A's conduct, to terminate the employment without notice.

(8) Subsection (7)(a) does not apply if, immediately after the termination, the employment is renewed on the same terms.

Commencement

Pt 5 c. 1 s. 39(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 39(1)-(8): England, Wales, Scotland

Law In Force

40 Employees and applicants: harassment

(1) An employer (A) must not, in relation to employment by A, harass a person (B)—

(a) who is an employee of A's;

(b) who has applied to A for employment.

(2)-(4) **[…]**[1]

Notes

[1] Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.65 (October 1, 2013: repeal has effect as SI 2013/2227 subject to transitional and savings provisions specified in SI 2013/2227 art.4)

Commencement

Pt 5 c. 1 s. 40(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 40(1)-(4)(b): England, Wales, Scotland

Law In Force

41 Contract workers

(1) A principal must not discriminate against a contract worker—

(a) as to the terms on which the principal allows the worker to do the work;

(b) by not allowing the worker to do, or to continue to do, the work;

(c) in the way the principal affords the worker access, or by not affording the worker access, to opportunities for receiving a benefit, facility or service;

(d) by subjecting the worker to any other detriment.

(2) A principal must not, in relation to contract work, harass a contract worker.

(3) A principal must not victimise a contract worker—

(a) as to the terms on which the principal allows the worker to do the work;

(b) by not allowing the worker to do, or to continue to do, the work;

(c) in the way the principal affords the worker access, or by not affording the worker access, to opportunities for receiving a benefit, facility or service;

(d) by subjecting the worker to any other detriment.

(4) A duty to make reasonable adjustments applies to a principal (as well as to the employer of a contract worker).

(5) A "principal" is a person who makes work available for an individual who is—

(a) employed by another person, and

(b) supplied by that other person in furtherance of a contract to which the principal is a party (whether or not that other person is a party to it).

(6) "Contract work" is work such as is mentioned in subsection (5).

(7) A "contract worker" is an individual supplied to a principal in furtherance of a contract such as is mentioned in subsection (5)(b).

Commencement

Pt 5 c. 1 s. 41(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 41(1)-(7): England, Wales, Scotland

Police officers

Law In Force

42 Identity of employer

(1) For the purposes of this Part, holding the office of constable is to be treated as employment—

(a) by the chief officer, in respect of any act done by the chief officer in relation to a constable or appointment to the office of constable;

(b) by the responsible authority, in respect of any act done by the authority in relation to a constable or appointment to the office of constable.

(2) For the purposes of this Part, holding an appointment as a police cadet is to be treated as employment—

(a) by the chief officer, in respect of any act done by the chief officer in relation to a police cadet or appointment as one;

(b) by the responsible authority, in respect of any act done by the authority in relation to a police cadet or appointment as one.

(3) Subsection (1) does not apply to service with the Civil Nuclear Constabulary (as to which, see section 55(2) of the Energy Act 2004).

(4) Subsection (1) does not apply to a constable at **[** NCA **]**[1] **[** or SPA **]**[2] .

(5) A constable at **[** NCA **]**[1] or **[** SPA **]**[3] is to be treated as employed by it, in respect of any act done by it in relation to the constable.

(6) **[…]**[4]

Notes

1 Word substituted by Crime and Courts Act 2013 c. 22 Sch.8(2) para.181 (October 7, 2013: substitution has effect as SI 2013/1682 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8)

2 Words substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(2)(a) (April 1, 2013)

3 Word substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(2)(b) (April 1, 2013)

4 Repealed by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(2)(c) (April 1, 2013)

Commencement

Pt 5 c. 1 s. 42(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 42(1)-(6): England, Wales, Scotland

Law In Force

43 Interpretation

(1) This section applies for the purposes of section 42.

(2) "Chief officer" means—

(a) in relation to an appointment under a relevant Act, the chief officer of police for the police force to which the appointment relates;

(b) in relation to any other appointment, the person under whose direction and control the body of constables or other persons to which the appointment relates is;

(c) in relation to a constable or other person under the direction and control of a chief officer of police, that chief officer of police;

(d) in relation to any other constable or any other person, the person under whose direction and control the constable or other person is.

(3) "Responsible authority" means—

(a) in relation to an appointment under a relevant Act, the **[** local policing body or police authority **]** [1] that maintains the police force to which the appointment relates;

(b) in relation to any other appointment, the person by whom a person would (if appointed) be paid;

(c) in relation to a constable or other person under the direction and control of a chief officer of police, the **[** local policing body or police authority **]** [1] that maintains the police force for which that chief officer is the chief officer of police;

(d) in relation to any other constable or any other person, the person by whom the constable or other person is paid.

(4) "Police cadet" means a person appointed to undergo training with a view to becoming a constable.

[(5) "NCA" means the National Crime Agency; and a reference to a constable at NCA is a reference to a constable seconded to it to serve as an NCA officer. **]** [2]

[(5A) "SPA" means the Scottish Police Authority; and a reference to a constable at SPA is a reference to a constable serving as a member of its staff by virtue of paragraph 7(1) of schedule 1 to the Police and Fire Reform (Scotland) Act 2012. **]** [3]

(7) **[…]**[4]

(8) For the purposes of this section, the relevant Acts are—

(a) the Metropolitan Police Act 1829;

(b) the City of London Police Act 1839;

(c) the **[** Police and Fire Reform (Scotland) Act 2012 **]** [5] ;

[(d) the Police Reform and Social Responsibility Act 2011. **]** [6]

(e) **[…]**[7]

[(9) Subsections (2) and (3) apply in relation to Scotland as follows—

(a) a reference to a police authority includes a reference to the Scottish Police Authority;

(b) a reference to a police force includes a reference to the Police Service of Scotland; and

(c) a reference to a chief officer of police includes a reference to the chief constable of the Police Service of Scotland.

] [8]

Notes

[1] Words substituted by Police Reform and Social Responsibility Act 2011 c. 13 Sch.16(3) para.382(a) (January 16, 2012)

[2] Substituted by Crime and Courts Act 2013 c. 22 Sch.8(2) para.182 (October 7, 2013: substitution has effect as SI 2013/1682 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8)

[3] S.43(5A) substituted for s.43(6) by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(3)(a) (April 1, 2013)

[4] Repealed by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(3)(b) (April 1, 2013)

[5] Words substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(3)(c) (April 1, 2013)

[6] Substituted by Police Reform and Social Responsibility Act 2011 c. 13 Sch.16(3) para.382 (November 22, 2012: commenced by an amendment)

[7] Repealed by Police Reform and Social Responsibility Act 2011 c. 13 Sch.16(3) para.382 (November 22, 2012 being the date on which 2011 c.13 s.1 comes into force)

[8] Substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(3)(d) (April 1, 2013)

Commencement

Pt 5 c. 1 s. 43(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 43(1)-(9)(c): England, Wales, Scotland

Partners

Law In Force

44 Partnerships

(1) A firm or proposed firm must not discriminate against a person—

(a) in the arrangements it makes for deciding to whom to offer a position as a partner;

(b) as to the terms on which it offers the person a position as a partner;

(c) by not offering the person a position as a partner.

(2) A firm (A) must not discriminate against a partner (B)—

(a) as to the terms on which B is a partner;

(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;

(c) by expelling B;
(d) by subjecting B to any other detriment.

(3) A firm must not, in relation to a position as a partner, harass—
(a) a partner;
(b) a person who has applied for the position.

(4) A proposed firm must not, in relation to a position as a partner, harass a person who has applied for the position.

(5) A firm or proposed firm must not victimise a person—
(a) in the arrangements it makes for deciding to whom to offer a position as a partner;
(b) as to the terms on which it offers the person a position as a partner;
(c) by not offering the person a position as a partner.

(6) A firm (A) must not victimise a partner (B)—
(a) as to the terms on which B is a partner;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by expelling B;
(d) by subjecting B to any other detriment.

(7) A duty to make reasonable adjustments applies to—
(a) a firm;
(b) a proposed firm.

(8) In the application of this section to a limited partnership within the meaning of the Limited Partnerships Act 1907, "partner" means a general partner within the meaning of that Act.

Commencement

Pt 5 c. 1 s. 44(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 44(1)-(8): England, Wales, Scotland

Law In Force

45 Limited liability partnerships

(1) An LLP or proposed LLP must not discriminate against a person—
(a) in the arrangements it makes for deciding to whom to offer a position as a member;
(b) as to the terms on which it offers the person a position as a member;
(c) by not offering the person a position as a member.

(2) An LLP (A) must not discriminate against a member (B)—
(a) as to the terms on which B is a member;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by expelling B;
(d) by subjecting B to any other detriment.

(3) An LLP must not, in relation to a position as a member, harass—

(a) a member;

(b) a person who has applied for the position.

(4) A proposed LLP must not, in relation to a position as a member, harass a person who has applied for the position.

(5) An LLP or proposed LLP must not victimise a person—

(a) in the arrangements it makes for deciding to whom to offer a position as a member;

(b) as to the terms on which it offers the person a position as a member;

(c) by not offering the person a position as a member.

(6) An LLP (A) must not victimise a member (B)—

(a) as to the terms on which B is a member;

(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;

(c) by expelling B;

(d) by subjecting B to any other detriment.

(7) A duty to make reasonable adjustments applies to—

(a) an LLP;

(b) a proposed LLP.

Commencement

Pt 5 c. 1 s. 45(1)-(7)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 45(1)-(7)(b): England, Wales, Scotland

Law In Force

46 Interpretation

(1) This section applies for the purposes of sections 44 and 45.

(2) "Partnership" and "firm" have the same meaning as in the Partnership Act 1890.

(3) "Proposed firm" means persons proposing to form themselves into a partnership.

(4) "LLP" means a limited liability partnership (within the meaning of the Limited Liability Partnerships Act 2000).

(5) "Proposed LLP" means persons proposing to incorporate an LLP with themselves as members.

(6) A reference to expelling a partner of a firm or a member of an LLP includes a reference to the termination of the person's position as such—

(a) by the expiry of a period (including a period expiring by reference to an event or circumstance);

(b) by an act of the person (including giving notice) in circumstances such that the person is entitled, because of the conduct of other partners or members, to terminate the position without notice;

(c) (in the case of a partner of a firm) as a result of the dissolution of the partnership.

(7) Subsection (6)(a) and (c) does not apply if, immediately after the termination, the position is renewed on the same terms.

Commencement

Pt 5 c. 1 s. 46(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 46(1)-(7): England, Wales, Scotland

The Bar

Law In Force

47 Barristers

(1) A barrister (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding to whom to offer a pupillage or tenancy;
(b) as to the terms on which A offers B a pupillage or tenancy;
(c) by not offering B a pupillage or tenancy.

(2) A barrister (A) must not discriminate against a person (B) who is a pupil or tenant—

(a) as to the terms on which B is a pupil or tenant;
(b) in the way A affords B access, or by not affording B access, to opportunities for training or gaining experience or for receiving any other benefit, facility or service;
(c) by terminating the pupillage;
(d) by subjecting B to pressure to leave chambers;
(e) by subjecting B to any other detriment.

(3) A barrister must not, in relation to a pupillage or tenancy, harass—

(a) the pupil or tenant;
(b) a person who has applied for the pupillage or tenancy.

(4) A barrister (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding to whom to offer a pupillage or tenancy;
(b) as to the terms on which A offers B a pupillage or tenancy;
(c) by not offering B a pupillage or tenancy.

(5) A barrister (A) must not victimise a person (B) who is a pupil or tenant—

(a) as to the terms on which B is a pupil or tenant;
(b) in the way A affords B access, or by not affording B access, to opportunities for training or gaining experience or for receiving any other benefit, facility or service;
(c) by terminating the pupillage;
(d) by subjecting B to pressure to leave chambers;
(e) by subjecting B to any other detriment.

(6) A person must not, in relation to instructing a barrister—

(a) discriminate against a barrister by subjecting the barrister to a detriment;
(b) harass the barrister;
(c) victimise the barrister.

(7) A duty to make reasonable adjustments applies to a barrister.

(8) The preceding provisions of this section (apart from subsection (6)) apply in relation to a barrister's clerk as they apply in relation to a barrister; and for that purpose the reference to a barrister's clerk includes a reference to a person who carries out the functions of a barrister's clerk.

(9) A reference to a tenant includes a reference to a barrister who is permitted to work in chambers (including as a squatter or door tenant); and a reference to a tenancy is to be construed accordingly.

Commencement

Pt 5 c. 1 s. 47(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 47(1)-(9): England, Wales, Scotland

Law In Force

48 Advocates

(1) An advocate (A) must not discriminate against a person (B)—
(a) in the arrangements A makes for deciding who to take as A's devil or to whom to offer membership of a stable;
(b) as to the terms on which A offers to take B as A's devil or offers B membership of a stable;
(c) by not offering to take B as A's devil or not offering B membership of a stable.

(2) An advocate (A) must not discriminate against a person (B) who is a devil or a member of a stable—
(a) as to the terms on which B is a devil or a member of the stable;
(b) in the way A affords B access, or by not affording B access, to opportunities for training or gaining experience or for receiving any other benefit, facility or service;
(c) by terminating A's relationship with B (where B is a devil);
(d) by subjecting B to pressure to leave the stable;
(e) by subjecting B to any other detriment.

(3) An advocate must not, in relation to a relationship with a devil or membership of a stable, harass—
(a) a devil or member;
(b) a person who has applied to be taken as the advocate's devil or to become a member of the stable.

(4) An advocate (A) must not victimise a person (B)—
(a) in the arrangements A makes for deciding who to take as A's devil or to whom to offer membership of a stable;

(b) as to the terms on which A offers to take B as A's devil or offers B membership of a stable;
(c) by not offering to take B as A's devil or not offering B membership of a stable.

(5) An advocate (A) must not victimise a person (B) who is a devil or a member of a stable—
(a) as to the terms on which B is a devil or a member of the stable;
(b) in the way A affords B access, or by not affording B access, to opportunities for training or gaining experience or for receiving any other benefit, facility or service;
(c) by terminating A's relationship with B (where B is a devil);
(d) by subjecting B to pressure to leave the stable;
(e) by subjecting B to any other detriment.

(6) A person must not, in relation to instructing an advocate—
(a) discriminate against the advocate by subjecting the advocate to a detriment;
(b) harass the advocate;
(c) victimise the advocate.

(7) A duty to make reasonable adjustments applies to an advocate.

(8) This section (apart from subsection (6)) applies in relation to an advocate's clerk as it applies in relation to an advocate; and for that purpose the reference to an advocate's clerk includes a reference to a person who carries out the functions of an advocate's clerk.

(9) “Advocate” means a practising member of the Faculty of Advocates.

Commencement

Pt 5 c. 1 s. 48(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 48(1)-(9): England, Wales, Scotland

Office-holders

Law In Force

49 Personal offices: appointments, etc.

(1) This section applies in relation to personal offices.

(2) A personal office is an office or post—
(a) to which a person is appointed to discharge a function personally under the direction of another person, and
(b) in respect of which an appointed person is entitled to remuneration.

(3) A person (A) who has the power to make an appointment to a personal office must not discriminate against a person (B)—
(a) in the arrangements A makes for deciding to whom to offer the appointment;
(b) as to the terms on which A offers B the appointment;

(c) by not offering B the appointment.

(4) A person who has the power to make an appointment to a personal office must not, in relation to the office, harass a person seeking, or being considered for, the appointment.

(5) A person (A) who has the power to make an appointment to a personal office must not victimise a person (B)—

(a) in the arrangements A makes for deciding to whom to offer the appointment;
(b) as to the terms on which A offers B the appointment;
(c) by not offering B the appointment.

(6) A person (A) who is a relevant person in relation to a personal office must not discriminate against a person (B) appointed to the office—

(a) as to the terms of B's appointment;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by terminating B's appointment;
(d) by subjecting B to any other detriment.

(7) A relevant person in relation to a personal office must not, in relation to that office, harass a person appointed to it.

(8) A person (A) who is a relevant person in relation to a personal office must not victimise a person (B) appointed to the office—

(a) as to the terms of B's appointment;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by terminating B's appointment;
(d) by subjecting B to any other detriment.

(9) A duty to make reasonable adjustments applies to—

(a) a person who has the power to make an appointment to a personal office;
(b) a relevant person in relation to a personal office.

(10) For the purposes of subsection (2)(a), a person is to be regarded as discharging functions personally under the direction of another person if that other person is entitled to direct the person as to when and where to discharge the functions.

(11) For the purposes of subsection (2)(b), a person is not to be regarded as entitled to remuneration merely because the person is entitled to payments—

(a) in respect of expenses incurred by the person in discharging the functions of the office or post, or
(b) by way of compensation for the loss of income or benefits the person would or might have received had the person not been discharging the functions of the office or post.

(12) Subsection (3)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—

(a) unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or
(b) if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (3)(b) by virtue of section 13, 14 or 18.

Commencement

Pt 5 c. 1 s. 49(1)-(12)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 49(1)-(12)(b): England, Wales, Scotland

Law In Force

50 Public offices: appointments, etc.

(1) This section and section 51 apply in relation to public offices.

(2) A public office is—

(a) an office or post, appointment to which is made by a member of the executive;

(b) an office or post, appointment to which is made on the recommendation of, or subject to the approval of, a member of the executive;

(c) an office or post, appointment to which is made on the recommendation of, or subject to the approval of, the House of Commons, the House of Lords, the National Assembly for Wales or the Scottish Parliament **[** ; **]** [1]

[(d) an office or post, appointment to which is made by the Lord Chief Justice or the Senior President of Tribunals. **]** [1]

(3) A person (A) who has the power to make an appointment to a public office within subsection (2)(a) **[** , (b) or (d) **]** [2] must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding to whom to offer the appointment;

(b) as to the terms on which A offers B the appointment;

(c) by not offering B the appointment.

(4) A person who has the power to make an appointment to a public office within subsection (2)(a) **[** , (b) or (d) **]** [2] must not, in relation to the office, harass a person seeking, or being considered for, the appointment.

(5) A person (A) who has the power to make an appointment to a public office within subsection (2)(a) **[** , (b) or (d) **]** [2] must not victimise a person (B)—

(a) in the arrangements A makes for deciding to whom to offer the appointment;

(b) as to the terms on which A offers B the appointment;

(c) by not offering B the appointment.

(6) A person (A) who is a relevant person in relation to a public office within subsection (2)(a) **[** , (b) or (d) **]** [2] must not discriminate against a person (B) appointed to the office—

(a) as to B's terms of appointment;

(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;

(c) by terminating the appointment;

(d) by subjecting B to any other detriment.

(7) A person (A) who is a relevant person in relation to a public office within subsection (2)(c) must not discriminate against a person (B) appointed to the office—

(a) as to B's terms of appointment;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by subjecting B to any other detriment (other than by terminating the appointment).

(8) A relevant person in relation to a public office must not, in relation to that office, harass a person appointed to it.

(9) A person (A) who is a relevant person in relation to a public office within subsection (2)(a) **[**, (b) or (d)**]**[2] must not victimise a person (B) appointed to the office—
(a) as to B's terms of appointment;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by terminating the appointment;
(d) by subjecting B to any other detriment.

(10) A person (A) who is a relevant person in relation to a public office within subsection (2)(c) must not victimise a person (B) appointed to the office—
(a) as to B's terms of appointment;
(b) in the way A affords B access, or by not affording B access, to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service;
(c) by subjecting B to any other detriment (other than by terminating the appointment).

(11) A duty to make reasonable adjustments applies to—
(a) a relevant person in relation to a public office;
(b) a person who has the power to make an appointment to a public office within subsection (2)(a) **[**, (b) or (d)**]**[2] .

(12) Subsection (3)(b), so far as relating to sex or pregnancy and maternity, does not apply to a term that relates to pay—
(a) unless, were B to accept the offer, an equality clause or rule would have effect in relation to the term, or
(b) if paragraph (a) does not apply, except in so far as making an offer on terms including that term amounts to a contravention of subsection (3)(b) by virtue of section 13, 14 or 18.

Notes

[1] Added by Crime and Courts Act 2013 c. 22 Sch.13(4) para.50(2) (October 1, 2013: insertion has effect as SI 2013/2200 subject to savings and transitional provisions specified in 2013 c.22 s.15, Sch.8 and SI 2013/2192 arts 48 and 49)

[2] Words substituted by Crime and Courts Act 2013 c. 22 Sch.13(4) para.50(3) (October 1, 2013: substitution has effect as SI 2013/2200 subject to savings and transitional provisions specified in 2013 c.22 s.15, Sch.8 and SI 2013/2192 arts 48 and 49)

Commencement

Pt 5 c. 1 s. 50(1)-(12)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 50(1)-(12)(b): England, Wales, Scotland

Law In Force

51 Public offices: recommendations for appointments, etc.

(1) A person (A) who has the power to make a recommendation for or give approval to an appointment to a public office within **[** section 50(2)(a), (b) or (d) **]** [1], must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding who to recommend for appointment or to whose appointment to give approval;
(b) by not recommending B for appointment to the office;
(c) by making a negative recommendation of B for appointment to the office;
(d) by not giving approval to the appointment of B to the office.

(2) A person who has the power to make a recommendation for or give approval to an appointment to a public office within **[** section 50(2)(a), (b) or (d) **]** [1] must not, in relation to the office, harass a person seeking or being considered for the recommendation or approval.

(3) A person (A) who has the power to make a recommendation for or give approval to an appointment to a public office within **[** section 50(2)(a), (b) or (d) **]** [1], must not victimise a person (B)—

(a) in the arrangements A makes for deciding who to recommend for appointment or to whose appointment to give approval;
(b) by not recommending B for appointment to the office;
(c) by making a negative recommendation of B for appointment to the office;
(d) by not giving approval to the appointment of B to the office.

(4) A duty to make reasonable adjustments applies to a person who has the power to make a recommendation for or give approval to an appointment to a public office within **[** section 50(2)(a), (b) or (d) **]** [1].

(5) A reference in this section to a person who has the power to make a recommendation for or give approval to an appointment to a public office within **[** section 50(2)(a) or (d) **]** [2] is a reference only to a relevant body which has that power; and for that purpose "relevant body" means a body established—

(a) by or in pursuance of an enactment, or
(b) by a member of the executive.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.13(4) para.51(2) (October 1, 2013: substitution has effect as SI 2013/2200 subject to savings and transitional provisions specified in 2013 c.22 s.15, Sch.8 and SI 2013/2192 arts 48 and 49)

[2] Words inserted by Crime and Courts Act 2013 c. 22 Sch.13(4) para.51(3) (October 1, 2013: insertion has effect as SI 2013/2200 subject to savings and transitional provisions specified in 2013 c.22 s.15, Sch.8 and SI 2013/2192 arts 48 and 49)

Commencement

Pt 5 c. 1 s. 51(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 51(1)-(5)(b): England, Wales, Scotland

Law In Force

52 Interpretation and exceptions

(1) This section applies for the purposes of sections 49 to 51.

(2) “Personal office” has the meaning given in section 49.

(3) “Public office” has the meaning given in section 50.

(4) An office or post which is both a personal office and a public office is to be treated as being a public office only.

(5) Appointment to an office or post does not include election to it.

(6) “Relevant person”, in relation to an office, means the person who, in relation to a matter specified in the first column of the table, is specified in the second column (but a reference to a relevant person does not in any case include the House of Commons, the House of Lords, the National Assembly for Wales or the Scottish Parliament).

Matter	***Relevant person***
A term of appointment	The person who has the power to set the term.
Access to an opportunity	The person who has the power to afford access to the opportunity (or, if there is no such person, the person who has the power to make the appointment).
Terminating an appointment	The person who has the power to terminate the appointment.
Subjecting an appointee to any other detriment	The person who has the power in relation to the matter to which the conduct in question relates (or, if there is no such person, the person who has the power to make the appointment).
Harassing an appointee	The person who has the power in relation to the matter to which the conduct in question relates.

(7) A reference to terminating a person's appointment includes a reference to termination of the appointment—

(a) by the expiry of a period (including a period expiring by reference to an event or circumstance);

(b) by an act of the person (including giving notice) in circumstances such that the person is entitled, because of the relevant person's conduct, to terminate the appointment without notice.

(8) Subsection (7)(a) does not apply if, immediately after the termination, the appointment is renewed on the same terms.

(9) Schedule 6 (excluded offices) has effect.

Commencement

Pt 5 c. 1 s. 52(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 52(1)-(9): England, Wales, Scotland

Qualifications

Law In Force

53 Qualifications bodies

(1) A qualifications body (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding upon whom to confer a relevant qualification;
(b) as to the terms on which it is prepared to confer a relevant qualification on B;
(c) by not conferring a relevant qualification on B.

(2) A qualifications body (A) must not discriminate against a person (B) upon whom A has conferred a relevant qualification—

(a) by withdrawing the qualification from B;
(b) by varying the terms on which B holds the qualification;
(c) by subjecting B to any other detriment.

(3) A qualifications body must not, in relation to conferment by it of a relevant qualification, harass—

(a) a person who holds the qualification, or
(b) a person who applies for it.

(4) A qualifications body (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding upon whom to confer a relevant qualification;
(b) as to the terms on which it is prepared to confer a relevant qualification on B;
(c) by not conferring a relevant qualification on B.

(5) A qualifications body (A) must not victimise a person (B) upon whom A has conferred a relevant qualification—

(a) by withdrawing the qualification from B;
(b) by varying the terms on which B holds the qualification;
(c) by subjecting B to any other detriment.

(6) A duty to make reasonable adjustments applies to a qualifications body.

(7) The application by a qualifications body of a competence standard to a disabled person is not disability discrimination unless it is discrimination by virtue of section 19.

Commencement

Pt 5 c. 1 s. 53(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 53(1)-(7): England, Wales, Scotland

Law In Force

54 Interpretation

(1) This section applies for the purposes of section 53.

(2) A qualifications body is an authority or body which can confer a relevant qualification.

(3) A relevant qualification is an authorisation, qualification, recognition, registration, enrolment, approval or certification which is needed for, or facilitates engagement in, a particular trade or profession.

(4) An authority or body is not a qualifications body in so far as—

(a) it can confer a qualification to which section 96 applies,
(b) it is the responsible body of a school to which section 85 applies,
(c) it is the governing body of an institution to which section 91 applies,
(d) it exercises functions under the Education Acts, or
(e) it exercises functions under the Education (Scotland) Act 1980.

(5) A reference to conferring a relevant qualification includes a reference to renewing or extending the conferment of a relevant qualification.

(6) A competence standard is an academic, medical or other standard applied for the purpose of determining whether or not a person has a particular level of competence or ability.

Commencement

Pt 5 c. 1 s. 54(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 54(1)-(6): England, Wales, Scotland

Employment services

Law In Force

55 Employment service-providers

(1) A person (an "employment service-provider") concerned with the provision of an employment service must not discriminate against a person—

(a) in the arrangements the service-provider makes for selecting persons to whom to provide, or to whom to offer to provide, the service;
(b) as to the terms on which the service-provider offers to provide the service to the person;
(c) by not offering to provide the service to the person.

(2) An employment service-provider (A) must not, in relation to the provision of an employment service, discriminate against a person (B)—

(a) as to the terms on which A provides the service to B;
(b) by not providing the service to B;
(c) by terminating the provision of the service to B;
(d) by subjecting B to any other detriment.

(3) An employment service-provider must not, in relation to the provision of an employment service, harass—

(a) a person who asks the service-provider to provide the service;

(b) a person for whom the service-provider provides the service.

(4) An employment service-provider (A) must not victimise a person (B)—

(a) in the arrangements A makes for selecting persons to whom to provide, or to whom to offer to provide, the service;

(b) as to the terms on which A offers to provide the service to B;

(c) by not offering to provide the service to B.

(5) An employment service-provider (A) must not, in relation to the provision of an employment service, victimise a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by not providing the service to B;

(c) by terminating the provision of the service to B;

(d) by subjecting B to any other detriment.

(6) A duty to make reasonable adjustments applies to an employment service-provider, except in relation to the provision of a vocational service.

(7) The duty imposed by section 29(7)(a) applies to a person concerned with the provision of a vocational service; but a failure to comply with that duty in relation to the provision of a vocational service is a contravention of this Part for the purposes of Part 9 (enforcement).

Commencement

Pt 5 c. 1 s. 55(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 55(1)-(7): England, Wales, Scotland

Law In Force

56 Interpretation

(1) This section applies for the purposes of section 55.

(2) The provision of an employment service includes—

(a) the provision of vocational training;

(b) the provision of vocational guidance;

(c) making arrangements for the provision of vocational training or vocational guidance;

(d) the provision of a service for finding employment for persons;

(e) the provision of a service for supplying employers with persons to do work;

(f) the provision of a service in pursuance of arrangements made under section 2 of the Employment and Training Act 1973 (functions of the Secretary of State relating to employment);

(g) the provision of a service in pursuance of arrangements made or a direction given under section 10 of that Act (careers services);

(h) the exercise of a function in pursuance of arrangements made under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (functions of Scottish Enterprise, etc. relating to employment);

(i) an assessment related to the conferment of a relevant qualification within the meaning of section 53 above (except in so far as the assessment is by the qualifications body which confers the qualification).

(3) This section does not apply in relation to training or guidance in so far as it is training or guidance in relation to which another provision of this Part applies.

(4) This section does not apply in relation to training or guidance for pupils of a school to which section 85 applies in so far as it is training or guidance to which the responsible body of the school has power to afford access (whether as the responsible body of that school or as the responsible body of any other school at which the training or guidance is provided).

(5) This section does not apply in relation to training or guidance for students of an institution to which section 91 applies in so far as it is training or guidance to which the governing body of the institution has power to afford access.

(6) "Vocational training" means—

(a) training for employment, or

(b) work experience (including work experience the duration of which is not agreed until after it begins).

(7) A reference to the provision of a vocational service is a reference to the provision of an employment service within subsection (2)(a) to (d) (or an employment service within subsection (2)(f) or (g) in so far as it is also an employment service within subsection (2)(a) to (d)); and for that purpose—

(a) the references to an employment service within subsection (2)(a) do not include a reference to vocational training within the meaning given by subsection (6)(b), and

(b) the references to an employment service within subsection (2)(d) also include a reference to a service for assisting persons to retain employment.

(8) A reference to training includes a reference to facilities for training.

Commencement

Pt 5 c. 1 s. 56(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 56(1)-(8): England, Wales, Scotland

Trade organisations

Law In Force

57 Trade organisations

(1) A trade organisation (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding to whom to offer membership of the organisation;

(b) as to the terms on which it is prepared to admit B as a member;

(c) by not accepting B's application for membership.

(2) A trade organisation (A) must not discriminate against a member (B)—

(a) in the way it affords B access, or by not affording B access, to opportunities for receiving a benefit, facility or service;

(b) by depriving B of membership;

(c) by varying the terms on which B is a member;

(d) by subjecting B to any other detriment.

(3) A trade organisation must not, in relation to membership of it, harass—

(a) a member, or

(b) an applicant for membership.

(4) A trade organisation (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding to whom to offer membership of the organisation;

(b) as to the terms on which it is prepared to admit B as a member;

(c) by not accepting B's application for membership.

(5) A trade organisation (A) must not victimise a member (B)—

(a) in the way it affords B access, or by not affording B access, to opportunities for receiving a benefit, facility or service;

(b) by depriving B of membership;

(c) by varying the terms on which B is a member;

(d) by subjecting B to any other detriment.

(6) A duty to make reasonable adjustments applies to a trade organisation.

(7) A trade organisation is—

(a) an organisation of workers,

(b) an organisation of employers, or

(c) any other organisation whose members carry on a particular trade or profession for the purposes of which the organisation exists.

Commencement

Pt 5 c. 1 s. 57(1)-(7)(c): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 57(1)-(7)(c): England, Wales, Scotland

Local authority members

Law In Force

58 Official business of members

(1) A local authority must not discriminate against a member of the authority in relation to the member's carrying out of official business—

(a) in the way the authority affords the member access, or by not affording the member access, to opportunities for training or for receiving any other facility;
(b) by subjecting the member to any other detriment.

(2) A local authority must not, in relation to a member's carrying out of official business, harass the member.

(3) A local authority must not victimise a member of the authority in relation to the member's carrying out of official business—
(a) in the way the authority affords the member access, or by not affording the member access, to opportunities for training or for receiving any other facility;
(b) by subjecting the member to any other detriment.

(4) A member of a local authority is not subjected to a detriment for the purposes of subsection (1)(b) or (3)(b) only because the member is—
(a) not appointed or elected to an office of the authority,
(b) not appointed or elected to, or to an office of, a committee or sub-committee of the authority, or
(c) not appointed or nominated in exercise of an appointment power of the authority.

(5) In subsection (4)(c), an appointment power of a local authority is a power of the authority, or of a group of bodies including the authority, to make—
(a) appointments to a body;
(b) nominations for appointment to a body.

(6) A duty to make reasonable adjustments applies to a local authority.

Commencement

Pt 5 c. 1 s. 58(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 58(1)-(6): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Scotland | Wales

Law In Force

England and Scotland

59 Interpretation

(1) This section applies for the purposes of section 58.

(2) "Local authority" means—
(a) a county council in England;

(b) a district council in England;
(c) the Greater London Authority;
(d) a London borough council;
(e) the Common Council of the City of London;
(f) the Council of the Isles of Scilly;
(g) a parish council in England;
(h) a county council in Wales;
(i) a community council in Wales;
(j) a county borough council in Wales;
(k) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
(l) a community council in Scotland.

(3) A Minister of the Crown may by order amend subsection (2) so as to add, vary or omit a reference to a body which exercises functions that have been conferred on a local authority within paragraph (a) to (l).

(4) A reference to the carrying-out of official business by a person who is a member of a local authority is a reference to the doing of anything by the person—
(a) as a member of the authority,
(b) as a member of a body to which the person is appointed by, or appointed following nomination by, the authority or a group of bodies including the authority, or
(c) as a member of any other public body.

(5) "Member", in relation to the Greater London Authority, means—
(a) the Mayor of London;
(b) a member of the London Assembly.

Wales

[59 Interpretation

(1) This section applies for the purposes of section 58.

(2) "Local authority" means—
(a) a county council in England;
(b) a district council in England;
(c) the Greater London Authority;
(d) a London borough council;
(e) the Common Council of the City of London;
(f) the Council of the Isles of Scilly;
(g) a parish council in England;
(h) a county council in Wales;
(i) a community council in Wales;
(j) a county borough council in Wales;
(ja) a corporate joint committee established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021;
(k) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(l) a community council in Scotland.

(3) A Minister of the Crown may by order amend subsection (2) so as to add, vary or omit a reference to a body which exercises functions that have been conferred on a local authority within paragraph (a) to (l).

(4) A reference to the carrying-out of official business by a person who is a member of a local authority is a reference to the doing of anything by the person—

(a) as a member of the authority,

(b) as a member of a body to which the person is appointed by, or appointed following nomination by, the authority or a group of bodies including the authority, or

(c) as a member of any other public body.

(5) "Member", in relation to the Greater London Authority, means—

(a) the Mayor of London;

(b) a member of the London Assembly.

] [1]

Notes

[1] Added by Corporate Joint Committees (General) (Wales) Regulations 2021/327 Sch.3 para.2 (April 1, 2021)

Commencement

Pt 5 c. 1 s. 59(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 59(1)-(5)(b): England, Wales, Scotland

Recruitment

Law In Force

60 Enquiries about disability and health

(1) A person (A) to whom an application for work is made must not ask about the health of the applicant (B)—

(a) before offering work to B, or

(b) where A is not in a position to offer work to B, before including B in a pool of applicants from whom A intends (when in a position to do so) to select a person to whom to offer work.

(2) A contravention of subsection (1) (or a contravention of section 111 or 112 that relates to a contravention of subsection (1)) is enforceable as an unlawful act under Part 1 of the Equality Act 2006 (and, by virtue of section 120(8), is enforceable only by the Commission under that Part).

(3) A does not contravene a relevant disability provision merely by asking about B's health; but A's conduct in reliance on information given in response may be a contravention of a relevant disability provision.

(4) Subsection (5) applies if B brings proceedings before an employment tribunal on a complaint that A's conduct in reliance on information given in response to a question about B's health is a contravention of a relevant disability provision.

(5) In the application of section 136 to the proceedings, the particulars of the complaint are to be treated for the purposes of subsection (2) of that section as facts from which the tribunal could decide that A contravened the provision.

(6) This section does not apply to a question that A asks in so far as asking the question is necessary for the purpose of—

(a) establishing whether B will be able to comply with a requirement to undergo an assessment or establishing whether a duty to make reasonable adjustments is or will be imposed on A in relation to B in connection with a requirement to undergo an assessment,

(b) establishing whether B will be able to carry out a function that is intrinsic to the work concerned,

(c) monitoring diversity in the range of persons applying to A for work,

(d) taking action to which section 158 would apply if references in that section to persons who share (or do not share) a protected characteristic were references to disabled persons (or persons who are not disabled) and the reference to the characteristic were a reference to disability, or

(e) if A applies in relation to the work a requirement to have a particular disability, establishing whether B has that disability.

(7) In subsection (6)(b), where A reasonably believes that a duty to make reasonable adjustments would be imposed on A in relation to B in connection with the work, the reference to a function that is intrinsic to the work is to be read as a reference to a function that would be intrinsic to the work once A complied with the duty.

(8) Subsection (6)(e) applies only if A shows that, having regard to the nature or context of the work—

(a) the requirement is an occupational requirement, and

(b) the application of the requirement is a proportionate means of achieving a legitimate aim.

(9) “Work” means employment, contract work, a position as a partner, a position as a member of an LLP, a pupillage or tenancy, being taken as a devil, membership of a stable, an appointment to a personal or public office, or the provision of an employment service; and the references in subsection (1) to offering a person work are, in relation to contract work, to be read as references to allowing a person to do the work.

(10) A reference to offering work is a reference to making a conditional or unconditional offer of work (and, in relation to contract work, is a reference to allowing a person to do the work subject to fulfilment of one or more conditions).

(11) The following, so far as relating to discrimination within section 13 because of disability, are relevant disability provisions—

(a) section 39(1)(a) or (c);

(b) section 41(1)(b);

(c) section 44(1)(a) or (c);

(d) section 45(1)(a) or (c);

(e) section 47(1)(a) or (c);

(f) section 48(1)(a) or (c);
(g) section 49(3)(a) or (c);
(h) section 50(3)(a) or (c);
(i) section 51(1);
(j) section 55(1)(a) or (c).

(12) An assessment is an interview or other process designed to give an indication of a person's suitability for the work concerned.

(13) For the purposes of this section, whether or not a person has a disability is to be regarded as an aspect of that person's health.

(14) This section does not apply to anything done for the purpose of vetting applicants for work for reasons of national security.

Commencement

Pt 5 c. 1 s. 60(1)-(14): October 1, 2010 (SI 2010/2317 art. 2(5)(a))

Extent

Pt 5 c. 1 s. 60(1)-(14): England, Wales, Scotland

CHAPTER 2

OCCUPATIONAL PENSION SCHEMES

Law In Force

61 Non-discrimination rule

(1) An occupational pension scheme must be taken to include a non-discrimination rule.

(2) A non-discrimination rule is a provision by virtue of which a responsible person (A)—
(a) must not discriminate against another person (B) in carrying out any of A's functions in relation to the scheme;
(b) must not, in relation to the scheme, harass B;
(c) must not, in relation to the scheme, victimise B.

(3) The provisions of an occupational pension scheme have effect subject to the non-discrimination rule.

(4) The following are responsible persons—
(a) the trustees or managers of the scheme;
(b) an employer whose employees are, or may be, members of the scheme;
(c) a person exercising an appointing function in relation to an office the holder of which is, or may be, a member of the scheme.

(5) A non-discrimination rule does not apply in relation to a person who is a pension credit member of a scheme.

(6) An appointing function is any of the following—

(a) the function of appointing a person;
(b) the function of terminating a person's appointment;
(c) the function of recommending a person for appointment;
(d) the function of approving an appointment.

(7) A breach of a non-discrimination rule is a contravention of this Part for the purposes of Part 9 (enforcement).

(8) It is not a breach of a non-discrimination rule for the employer or the trustees or managers of a scheme to maintain or use in relation to the scheme rules, practices, actions or decisions relating to age which are of a description specified by order by a Minister of the Crown.

(9) An order authorising the use of rules, practices, actions or decisions which are not in use before the order comes into force must not be made unless the Minister consults such persons as the Minister thinks appropriate.

(10) A non-discrimination rule does not have effect in relation to an occupational pension scheme in so far as an equality rule has effect in relation to it (or would have effect in relation to it but for Part 2 of Schedule 7).

(11) A duty to make reasonable adjustments applies to a responsible person.

Commencement

Pt 5 c. 2 s. 61(1)-(7), (10)-(11): October 1, 2010 (SI 2010/2317 art. 2(5)(b))

Pt 5 c. 2 s. 61(8)-(9): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(b))

Extent

Pt 5 c. 2 s. 61(1)-(11): England, Wales, Scotland

Law In Force

62 Non-discrimination alterations

(1) This section applies if the trustees or managers of an occupational pension scheme do not have power to make non-discrimination alterations to the scheme.

(2) This section also applies if the trustees or managers of an occupational pension scheme have power to make non-discrimination alterations to the scheme but the procedure for doing so—
(a) is liable to be unduly complex or protracted, or
(b) involves obtaining consents which cannot be obtained or which can be obtained only with undue delay or difficulty.

(3) The trustees or managers may by resolution make non-discrimination alterations to the scheme.

(4) Non-discrimination alterations may have effect in relation to a period before the date on which they are made.

(5) Non-discrimination alterations to an occupational pension scheme are such alterations to the scheme as may be required for the provisions of the scheme to have the effect that they have in consequence of section 61(3).

Commencement

Pt 5 c. 2 s. 62(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 2 s. 62(1)-(5): England, Wales, Scotland

Law In Force

63 Communications

(1) In their application to communications the following provisions apply in relation to a disabled person who is a pension credit member of an occupational pension scheme as they apply in relation to a disabled person who is a deferred member or pensioner member of the scheme—

(a) section 61;

(b) section 120;

(c) section 126;

(d) paragraph 19 of Schedule 8 (and such other provisions of that Schedule as apply for the purposes of that paragraph).

(2) Communications include—

(a) the provision of information;

(b) the operation of a dispute resolution procedure.

Commencement

Pt 5 c. 2 s. 63(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 2 s. 63(1)-(2)(b): England, Wales, Scotland

CHAPTER 3

EQUALITY OF TERMS

Sex equality

Law In Force

64 Relevant types of work

(1) Sections 66 to 70 apply where—

(a) a person (A) is employed on work that is equal to the work that a comparator of the opposite sex (B) does;

(b) a person (A) holding a personal or public office does work that is equal to the work that a comparator of the opposite sex (B) does.

(2) The references in subsection (1) to the work that B does are not restricted to work done contemporaneously with the work done by A.

Commencement

Pt 5 c. 3 s. 64(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 64(1)-(2): England, Wales, Scotland

Law In Force

65 Equal work

(1) For the purposes of this Chapter, A's work is equal to that of B if it is—

(a) like B's work,

(b) rated as equivalent to B's work, or

(c) of equal value to B's work.

(2) A's work is like B's work if—

(a) A's work and B's work are the same or broadly similar, and

(b) such differences as there are between their work are not of practical importance in relation to the terms of their work.

(3) So on a comparison of one person's work with another's for the purposes of subsection (2), it is necessary to have regard to—

(a) the frequency with which differences between their work occur in practice, and

(b) the nature and extent of the differences.

(4) A's work is rated as equivalent to B's work if a job evaluation study—

(a) gives an equal value to A's job and B's job in terms of the demands made on a worker, or

(b) would give an equal value to A's job and B's job in those terms were the evaluation not made on a sex-specific system.

(5) A system is sex-specific if, for the purposes of one or more of the demands made on a worker, it sets values for men different from those it sets for women.

(6) A's work is of equal value to B's work if it is—

(a) neither like B's work nor rated as equivalent to B's work, but

(b) nevertheless equal to B's work in terms of the demands made on A by reference to factors such as effort, skill and decision-making.

Commencement

Pt 5 c. 3 s. 65(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 65(1)-(6)(b): England, Wales, Scotland

Law In Force

66 Sex equality clause

(1) If the terms of A's work do not (by whatever means) include a sex equality clause, they are to be treated as including one.

(2) A sex equality clause is a provision that has the following effect—

(a) if a term of A's is less favourable to A than a corresponding term of B's is to B, A's term is modified so as not to be less favourable;

(b) if A does not have a term which corresponds to a term of B's that benefits B, A's terms are modified so as to include such a term.

(3) Subsection (2)(a) applies to a term of A's relating to membership of or rights under an occupational pension scheme only in so far as a sex equality rule would have effect in relation to the term.

(4) In the case of work within section 65(1)(b), a reference in subsection (2) above to a term includes a reference to such terms (if any) as have not been determined by the rating of the work (as well as those that have).

Commencement

Pt 5 c. 3 s. 66(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 66(1)-(4): England, Wales, Scotland

Law In Force

67 Sex equality rule

(1) If an occupational pension scheme does not include a sex equality rule, it is to be treated as including one.

(2) A sex equality rule is a provision that has the following effect—

(a) if a relevant term is less favourable to A than it is to B, the term is modified so as not to be less favourable;

(b) if a term confers a relevant discretion capable of being exercised in a way that would be less favourable to A than to B, the term is modified so as to prevent the exercise of the discretion in that way.

(3) A term is relevant if it is—

(a) a term on which persons become members of the scheme, or

(b) a term on which members of the scheme are treated.

(4) A discretion is relevant if its exercise in relation to the scheme is capable of affecting—

(a) the way in which persons become members of the scheme, or

(b) the way in which members of the scheme are treated.

(5) The reference in subsection (3)(b) to a term on which members of a scheme are treated includes a reference to the term as it has effect for the benefit of dependants of members.

(6) The reference in subsection (4)(b) to the way in which members of a scheme are treated includes a reference to the way in which they are treated as the scheme has effect for the benefit of dependants of members.

[(7) If the effect of a relevant matter on a person (A) differs according to the effect it has on a person of the same sex as A, according to whether A is married, in a civil partnership, or for some other reason due to A's family status, a comparison for the purposes of this section of the effect of that matter on persons of the opposite sex must be with a person of the opposite sex to A who is in the same position as A and in particular—

(a) where A is married to **[** , or the civil partner of, **]** [2] someone of the opposite sex, A is to be compared to a person of the opposite sex to A ("B") where B is married to **[** or (as the case may be) the civil partner of **]** [3] someone of the opposite sex to B;

[(b) where A is married to, or the civil partner of, someone of the same sex, A is to be compared to B where B is married to or (as the case may be) the civil partner of someone of the same sex as B. **]** [4]

] [1]

(8) A relevant matter is—

(a) a relevant term;

(b) a term conferring a relevant discretion;

(c) the exercise of a relevant discretion in relation to an occupational pension scheme.

(9) This section, so far as relating to the terms on which persons become members of an occupational pension scheme, does not have effect in relation to pensionable service before 8 April 1976.

(10) This section, so far as relating to the terms on which members of an occupational pension scheme are treated, does not have effect in relation to pensionable service before 17 May 1990.

Notes

[1] Substituted by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(2) (December 16, 2014)

[2] Words inserted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(3)(a)(i) (December 2, 2019)

[3] Words inserted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(3)(a)(ii) (December 2, 2019)

[4] Substituted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(3)(b) (December 2, 2019)

Commencement

Pt 5 c. 3 s. 67(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 67(1)-(10): England, Wales, Scotland

Law In Force

68 Sex equality rule: consequential alteration of schemes

(1) This section applies if the trustees or managers of an occupational pension scheme do not have power to make sex equality alterations to the scheme.

(2) This section also applies if the trustees or managers of an occupational pension scheme have power to make sex equality alterations to the scheme but the procedure for doing so—

(a) is liable to be unduly complex or protracted, or

(b) involves obtaining consents which cannot be obtained or which can be obtained only with undue delay or difficulty.

(3) The trustees or managers may by resolution make sex equality alterations to the scheme.

(4) Sex equality alterations may have effect in relation to a period before the date on which they are made.

(5) Sex equality alterations to an occupational pension scheme are such alterations to the scheme as may be required to secure conformity with a sex equality rule.

Commencement

Pt 5 c. 3 s. 68(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 68(1)-(5): England, Wales, Scotland

Law In Force

69 Defence of material factor

(1) The sex equality clause in A's terms has no effect in relation to a difference between A's terms and B's terms if the responsible person shows that the difference is because of a material factor reliance on which—

(a) does not involve treating A less favourably because of A's sex than the responsible person treats B, and

(b) if the factor is within subsection (2), is a proportionate means of achieving a legitimate aim.

(2) A factor is within this subsection if A shows that, as a result of the factor, A and persons of the same sex doing work equal to A's are put at a particular disadvantage when compared with persons of the opposite sex doing work equal to A's.

(3) For the purposes of subsection (1), the long-term objective of reducing inequality between men's and women's terms of work is always to be regarded as a legitimate aim.

(4) A sex equality rule has no effect in relation to a difference between A and B in the effect of a relevant matter if the trustees or managers of the scheme in question show that the difference is because of a material factor which is not the difference of sex.

(5) "Relevant matter" has the meaning given in section 67.

(6) For the purposes of this section, a factor is not material unless it is a material difference between A's case and B's.

Commencement

Pt 5 c. 3 s. 69(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 69(1)-(6): England, Wales, Scotland

Law In Force

70 Exclusion of sex discrimination provisions

(1) The relevant sex discrimination provision has no effect in relation to a term of A's that—

(a) is modified by, or included by virtue of, a sex equality clause or rule, or

(b) would be so modified or included but for section 69 or Part 2 of Schedule 7.

(2) Neither of the following is sex discrimination for the purposes of the relevant sex discrimination provision—

(a) the inclusion in A's terms of a term that is less favourable as referred to in section 66(2)(a);

(b) the failure to include in A's terms a corresponding term as referred to in section 66(2)(b).

(3) The relevant sex discrimination provision is, in relation to work of a description given in the first column of the table, the provision referred to in the second column so far as relating to sex.

Description of work	***Provision***
Employment	Section 39(2)
Appointment to a personal office	Section 49(6)
Appointment to a public office	Section 50(6)

Commencement

Pt 5 c. 3 s. 70(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 70(1)-(3): England, Wales, Scotland

Law In Force

71 Sex discrimination in relation to contractual pay

(1) This section applies in relation to a term of a person's work—

(a) that relates to pay, but

(b) in relation to which a sex equality clause or rule has no effect.

(2) The relevant sex discrimination provision (as defined by section 70) has no effect in relation to the term except in so far as treatment of the person amounts to a contravention of the provision by virtue of section 13 or 14.

Commencement

Pt 5 c. 3 s. 71(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 71(1)-(2): England, Wales, Scotland

Pregnancy and maternity equality

Law In Force

72 Relevant types of work

Sections 73 to 76 apply where a woman—

(a) is employed, or

(b) holds a personal or public office.

Commencement

Pt 5 c. 3 s. 72(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 72(a)-(b): England, Wales, Scotland

Law In Force

73 Maternity equality clause

(1) If the terms of the woman's work do not (by whatever means) include a maternity equality clause, they are to be treated as including one.

(2) A maternity equality clause is a provision that, in relation to the terms of the woman's work, has the effect referred to in section 74(1), (6) and (8).

(3) In the case of a term relating to membership of or rights under an occupational pension scheme, a maternity equality clause has only such effect as a maternity equality rule would have.

Commencement

Pt 5 c. 3 s. 73(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 73(1)-(3): England, Wales, Scotland

Law In Force

74 Maternity equality clause: pay

(1) A term of the woman's work that provides for maternity-related pay to be calculated by reference to her pay at a particular time is, if each of the following three conditions is satisfied, modified as mentioned in subsection (5).

(2) The first condition is that, after the time referred to in subsection (1) but before the end of the protected period—

(a) her pay increases, or

(b) it would have increased had she not been on maternity leave.

(3) The second condition is that the maternity-related pay is not—

(a) what her pay would have been had she not been on maternity leave, or

(b) the difference between the amount of statutory maternity pay to which she is entitled and what her pay would have been had she not been on maternity leave.

(4) The third condition is that the terms of her work do not provide for the maternity-related pay to be subject to—

(a) an increase as mentioned in subsection (2)(a), or

(b) an increase that would have occurred as mentioned in subsection (2)(b).

(5) The modification referred to in subsection (1) is a modification to provide for the maternity-related pay to be subject to—

(a) any increase as mentioned in subsection (2)(a), or

(b) any increase that would have occurred as mentioned in subsection (2)(b).

(6) A term of her work that—

(a) provides for pay within subsection (7), but

(b) does not provide for her to be given the pay in circumstances in which she would have been given it had she not been on maternity leave,

is modified so as to provide for her to be given it in circumstances in which it would normally be given.

(7) Pay is within this subsection if it is—

(a) pay (including pay by way of bonus) in respect of times before the woman is on maternity leave,

(b) pay by way of bonus in respect of times when she is on compulsory maternity leave, or

(c) pay by way of bonus in respect of times after the end of the protected period.

(8) A term of the woman's work that—

(a) provides for pay after the end of the protected period, but
(b) does not provide for it to be subject to an increase to which it would have been subject had she not been on maternity leave,

is modified so as to provide for it to be subject to the increase.

(9) Maternity-related pay is pay (other than statutory maternity pay) to which a woman is entitled—
(a) as a result of being pregnant, or
(b) in respect of times when she is on maternity leave.

(10) A reference to the protected period is to be construed in accordance with section 18.

Commencement

Pt 5 c. 3 s. 74(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 74(1)-(10): England, Wales, Scotland

Law In Force

75 Maternity equality rule

(1) If an occupational pension scheme does not include a maternity equality rule, it is to be treated as including one.

(2) A maternity equality rule is a provision that has the effect set out in subsections (3) and (4).

(3) If a relevant term does not treat time when the woman is on maternity leave as it treats time when she is not, the term is modified so as to treat time when she is on maternity leave as time when she is not.

(4) If a term confers a relevant discretion capable of being exercised so that time when she is on maternity leave is treated differently from time when she is not, the term is modified so as not to allow the discretion to be exercised in that way.

(5) A term is relevant if it is—
(a) a term relating to membership of the scheme,
(b) a term relating to the accrual of rights under the scheme, or
(c) a term providing for the determination of the amount of a benefit payable under the scheme.

(6) A discretion is relevant if its exercise is capable of affecting—
(a) membership of the scheme,
(b) the accrual of rights under the scheme, or
(c) the determination of the amount of a benefit payable under the scheme.

(7) This section does not require the woman's contributions to the scheme in respect of time when she is on maternity leave to be determined otherwise than by reference to the amount she is paid in respect of that time.

(8) This section, so far as relating to time when she is on ordinary maternity leave but is not being paid by her employer, applies only in a case where the expected week of childbirth began on or after 6 April 2003.

(9) This section, so far as relating to time when she is on additional maternity leave but is not being paid by her employer—

(a) does not apply to the accrual of rights under the scheme in any case;

(b) applies for other purposes only in a case where the expected week of childbirth began on or after 5 October 2008.

(10) In this section—

(a) a reference to being on maternity leave includes a reference to having been on maternity leave, and

(b) a reference to being paid by the employer includes a reference to receiving statutory maternity pay from the employer.

Commencement

Pt 5 c. 3 s. 75(1)-(10)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 75(1)-(10)(b): England, Wales, Scotland

Law In Force

76 Exclusion of pregnancy and maternity discrimination provisions

(1) The relevant pregnancy and maternity discrimination provision has no effect in relation to a term of the woman's work that is modified by a maternity equality clause or rule.

[(1A) The relevant pregnancy and maternity discrimination provision has no effect in relation to a term of the woman's work—

(a) that relates to pay, but

(b) in relation to which a maternity equality clause or rule has no effect.

] [1]

(2) The inclusion in the woman's terms of a term that requires modification by virtue of section 73(2) or (3) is not pregnancy and maternity discrimination for the purposes of the relevant pregnancy and maternity discrimination provision.

(3) The relevant pregnancy and maternity discrimination provision is, in relation to a description of work given in the first column of the table, the provision referred to in the second column so far as relating to pregnancy and maternity.

Description of work	***Provision***
Employment	Section 39(2)
Appointment to a personal office	Section 49(6)
Appointment to a public office	Section 50(6)

Notes

[1] Added by Equality Act 2010 (Amendment) Order 2010/2622 art.2 (October 30, 2010)

Commencement

Pt 5 c. 3 s. 76(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 76(1)-(3): England, Wales, Scotland

Disclosure of information

Law In Force

77 Discussions about pay

(1) A term of a person's work that purports to prevent or restrict the person (P) from disclosing or seeking to disclose information about the terms of P's work is unenforceable against P in so far as P makes or seeks to make a relevant pay disclosure.

(2) A term of a person's work that purports to prevent or restrict the person (P) from seeking disclosure of information from a colleague about the terms of the colleague's work is unenforceable against P in so far as P seeks a relevant pay disclosure from the colleague; and “colleague” includes a former colleague in relation to the work in question.

(3) A disclosure is a relevant pay disclosure if made for the purpose of enabling the person who makes it, or the person to whom it is made, to find out whether or to what extent there is, in relation to the work in question, a connection between pay and having (or not having) a particular protected characteristic.

(4) The following are to be treated as protected acts for the purposes of the relevant victimisation provision—

(a) seeking a disclosure that would be a relevant pay disclosure;
(b) making or seeking to make a relevant pay disclosure;
(c) receiving information disclosed in a relevant pay disclosure.

(5) The relevant victimisation provision is, in relation to a description of work specified in the first column of the table, section 27 so far as it applies for the purposes of a provision mentioned in the second column.

Description of work	***Provision by virtue of which* section 27*has effect***
Employment	Section 39(3) or (4)
Appointment to a personal office	Section 49(5) or (8)
Appointment to a public office	Section 50(5) or (9)

Commencement

Pt 5 c. 3 s. 77(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(c))

Extent

Pt 5 c. 3 s. 77(1)-(5): England, Wales, Scotland

Law In Force

78 Gender pay gap information

(1) Regulations may require employers to publish information relating to the pay of employees for the purpose of showing whether, by reference to factors of such description as is prescribed, there are differences in the pay of male and female employees.

(2) This section does not apply to—

(a) an employer who has fewer than 250 employees;
(b) a person specified in Schedule 19;
(c) a government department or part of the armed forces not specified in that Schedule.

(3) The regulations may prescribe—

(a) descriptions of employer;
(b) descriptions of employee;
(c) how to calculate the number of employees that an employer has;
(d) descriptions of information;
(e) the time at which information is to be published;
(f) the form and manner in which it is to be published.

(4) Regulations under subsection (3)(e) may not require an employer, after the first publication of information, to publish information more frequently than at intervals of 12 months.

(5) The regulations may make provision for a failure to comply with the regulations—

(a) to be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale;
(b) to be enforced, otherwise than as an offence, by such means as are prescribed.

(6) The reference to a failure to comply with the regulations includes a reference to a failure by a person acting on behalf of an employer.

Commencement

Pt 5 c. 3 s. 78(1)-(6): August 22, 2016 (SI 2016/839 art. 2)

Extent

Pt 5 c. 3 s. 78(1)-(6): England, Wales, Scotland

Supplementary

Law In Force

79 Comparators

(1) This section applies for the purposes of this Chapter.

(2) If A is employed, B is a comparator if subsection (3) or (4) applies.

(3) This subsection applies if—

(a) B is employed by A's employer or by an associate of A's employer, and

(b) A and B work at the same establishment.

(4) This subsection applies if—

(a) B is employed by A's employer or an associate of A's employer,

(b) B works at an establishment other than the one at which A works, and

(c) common terms apply at the establishments (either generally or as between A and B).

(5) If A holds a personal or public office, B is a comparator if—

(a) B holds a personal or public office, and

(b) the person responsible for paying A is also responsible for paying B.

(6) If A is a relevant member of the House of Commons staff, B is a comparator if—

(a) B is employed by the person who is A's employer under subsection (6) of section 195 of the Employment Rights Act 1996, or

(b) if subsection (7) of that section applies in A's case, B is employed by the person who is A's employer under that subsection.

(7) If A is a relevant member of the House of Lords staff, B is a comparator if B is also a relevant member of the House of Lords staff.

(8) Section 42 does not apply to this Chapter; accordingly, for the purposes of this Chapter only, holding the office of constable is to be treated as holding a personal office.

(9) For the purposes of this section, employers are associated if—

(a) one is a company of which the other (directly or indirectly) has control, or

(b) both are companies of which a third person (directly or indirectly) has control.

Commencement

Pt 5 c. 3 s. 79(1)-(9)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(d))

Extent

Pt 5 c. 3 s. 79(1)-(9)(b): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

80 Interpretation and exceptions

(1) This section applies for the purposes of this Chapter.

(2) The terms of a person's work are—

(a) if the person is employed, the terms of the person's employment that are in the person's contract of employment, contract of apprenticeship or contract to do work personally;

(b) if the person holds a personal or public office, the terms of the person's appointment to the office.

(3) If work is not done at an establishment, it is to be treated as done at the establishment with which it has the closest connection.

(4) A person (P) is the responsible person in relation to another person if—

(a) P is the other's employer;

(b) P is responsible for paying remuneration in respect of a personal or public office that the other holds.

(5) A job evaluation study is a study undertaken with a view to evaluating, in terms of the demands made on a person by reference to factors such as effort, skill and decision-making, the jobs to be done—

(a) by some or all of the workers in an undertaking or group of undertakings, or

(b) in the case of the armed forces, by some or all of the members of the armed forces.

(6) In the case of Crown employment, the reference in subsection (5)(a) to an undertaking is to be construed in accordance with section 191(4) of the Employment Rights Act 1996.

(7) **[…]**[1]

(8) Schedule 7 (exceptions) has effect.

Notes

[1] Repealed by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(3) (December 16, 2014)

England and Wales

[80 Interpretation and exceptions

(1) This section applies for the purposes of this Chapter.

(2) The terms of a person's work are—

(a) if the person is employed, the terms of the person's employment that are in the person's contract of employment, contract of apprenticeship or contract to do work personally;

(b) if the person holds a personal or public office, the terms of the person's appointment to the office.

(3) If work is not done at an establishment, it is to be treated as done at the establishment with which it has the closest connection.

(4) A person (P) is the responsible person in relation to another person if—

(a) P is the other's employer;

(b) P is responsible for paying remuneration in respect of a personal or public office that the other holds.

(5) A job evaluation study is a study undertaken with a view to evaluating, in terms of the demands made on a person by reference to factors such as effort, skill and decision-making, the jobs to be done—

(a) by some or all of the workers in an undertaking or group of undertakings, or

(b) in the case of the armed forces, by some or all of the members of the armed forces.

(6) In the case of Crown employment, the reference in subsection (5)(a) to an undertaking is to be construed in accordance with section 191(4) of the Employment Rights Act 1996.

(7) [...]

(8) Schedule 7 (exceptions) has effect.

] [1]

Notes

[1] Repealed by Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014/560 Sch.1 para.35(3) (March 13, 2014)

Commencement

Pt 5 c. 3 s. 80(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(e))

Pt 5 c. 3 s. 80(8): August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(iii); SI 2010/2317 art. 2(5)(e))

Extent

Pt 5 c. 3 s. 80(1)-(8): England, Wales, Scotland

CHAPTER 4

SUPPLEMENTARY

Law In Force

81 Ships and hovercraft

(1) This Part applies in relation to—

(a) work on ships,

(b) work on hovercraft, and

(c) seafarers,

only in such circumstances as are prescribed.

(2) For the purposes of this section, it does not matter whether employment arises or work is carried out within or outside the United Kingdom.

(3) “Ship” has the same meaning as in the Merchant Shipping Act 1995.

(4) “Hovercraft” has the same meaning as in the Hovercraft Act 1968.

(5) “Seafarer” means a person employed or engaged in any capacity on board a ship or hovercraft.

(6) Nothing in this section affects the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Commencement

Pt 5 c. 4 s. 81(1)-(6): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(e))

Extent

Pt 5 c. 4 s. 81-(6): England, Wales, Scotland

Law In Force

82 Offshore work

(1) Her Majesty may by Order in Council provide that in the case of persons in offshore work—

(a) specified provisions of this Part apply (with or without modification);

(b) Northern Ireland legislation making provision for purposes corresponding to any of the purposes of this Part applies (with or without modification).

(2) The Order may—

(a) provide for these provisions, as applied by the Order, to apply to individuals (whether or not British citizens) and bodies corporate (whether or not incorporated under the law of a part of the United Kingdom), whether or not such application affects activities outside the United Kingdom;

(b) make provision for conferring jurisdiction on a specified court or class of court or on employment tribunals in respect of offences, causes of action or other matters arising in connection with offshore work;

(c) exclude from the operation of section 3 of the Territorial Waters Jurisdiction Act 1878 (consents required for prosecutions) proceedings for offences under the provisions mentioned in subsection (1) in connection with offshore work;

(d) provide that such proceedings must not be brought without such consent as may be required by the Order.

(3) “Offshore work” is work for the purposes of—

(a) activities in the territorial sea adjacent to the United Kingdom,

(b) activities such as are mentioned in subsection (2) of section 11 of the Petroleum Act 1998 in waters within subsection (8)(b) or (c) of that section, or

(c) activities mentioned in paragraphs (a) and (b) of section 87(1) of the Energy Act 2004 in waters to which that section applies.

(4) Work includes employment, contract work, a position as a partner or as a member of an LLP, or an appointment to a personal or public office.

(5) Northern Ireland legislation includes an enactment contained in, or in an instrument under, an Act that forms part of the law of Northern Ireland.

(6) In the application to Northern Ireland of subsection (2)(b), the reference to employment tribunals is to be read as a reference to industrial tribunals.

(7) Nothing in this section affects the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Commencement

Pt 5 c. 4 s. 82(1)-(7): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(e))

Extent

Pt 5 c. 4 s. 82-(7): United Kingdom

Law In Force

83 Interpretation and exceptions

(1) This section applies for the purposes of this Part.

(2) "Employment" means—

(a) employment under a contract of employment, a contract of apprenticeship or a contract personally to do work;

(b) Crown employment;

(c) employment as a relevant member of the House of Commons staff;

(d) employment as a relevant member of the House of Lords staff.

(3) This Part applies to service in the armed forces as it applies to employment by a private person; and for that purpose—

(a) references to terms of employment, or to a contract of employment, are to be read as including references to terms of service;

(b) references to associated employers are to be ignored.

(4) A reference to an employer or an employee, or to employing or being employed, is (subject to section 212(11)) to be read with subsections (2) and (3); and a reference to an employer also includes a reference to a person who has no employees but is seeking to employ one or more other persons.

(5) "Relevant member of the House of Commons staff" has the meaning given in section 195 of the Employment Rights Act 1996; and such a member of staff is an employee of—

(a) the person who is the employer of that member under subsection (6) of that section, or

(b) if subsection (7) of that section applies in the case of that member, the person who is the employer of that member under that subsection.

(6) "Relevant member of the House of Lords staff" has the meaning given in section 194 of that Act (which provides that such a member of staff is an employee of the Corporate Officer of the House of Lords).

(7) In the case of a person in Crown employment, or in employment as a relevant member of the House of Commons staff, a reference to the person's dismissal is a reference to the termination of the person's employment.

(8) A reference to a personal or public office, or to an appointment to a personal or public office, is to be construed in accordance with section 52.

(9) "Crown employment" has the meaning given in section 191 of the Employment Rights Act 1996.

(10) Schedule 8 (reasonable adjustments) has effect.

(11) Schedule 9 (exceptions) has effect.

Commencement

Pt 5 c. 4 s. 83(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(5)(e))

Pt 5 c. 4 s. 83(11): August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(iv); SI 2010/2317 art. 2(5)(e))

Extent

Pt 5 c. 4 s. 83(1)-(11): England, Wales, Scotland

PART 6

EDUCATION

CHAPTER 1

SCHOOLS

Law In Force

84 Application of this Chapter

This Chapter does not apply to the following protected characteristics—

(a) age;

(b) marriage and civil partnership.

Commencement

Pt 6 c. 1 s. 84(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 84(a)-(b): England, Wales, Scotland

Law In Force

85 Pupils: admission and treatment, etc.

(1) The responsible body of a school to which this section applies must not discriminate against a person—

(a) in the arrangements it makes for deciding who is offered admission as a pupil;
(b) as to the terms on which it offers to admit the person as a pupil;
(c) by not admitting the person as a pupil.

(2) The responsible body of such a school must not discriminate against a pupil—

(a) in the way it provides education for the pupil;
(b) in the way it affords the pupil access to a benefit, facility or service;
(c) by not providing education for the pupil;
(d) by not affording the pupil access to a benefit, facility or service;
(e) by excluding the pupil from the school;
(f) by subjecting the pupil to any other detriment.

(3) The responsible body of such a school must not harass—

(a) a pupil;
(b) a person who has applied for admission as a pupil.

(4) The responsible body of such a school must not victimise a person—

(a) in the arrangements it makes for deciding who is offered admission as a pupil;
(b) as to the terms on which it offers to admit the person as a pupil;
(c) by not admitting the person as a pupil.

(5) The responsible body of such a school must not victimise a pupil—

(a) in the way it provides education for the pupil;
(b) in the way it affords the pupil access to a benefit, facility or service;
(c) by not providing education for the pupil;
(d) by not affording the pupil access to a benefit, facility or service;
(e) by excluding the pupil from the school;
(f) by subjecting the pupil to any other detriment.

(6) A duty to make reasonable adjustments applies to the responsible body of such a school.

(7) In relation to England and Wales, this section applies to—

(a) a school maintained by a local authority;
(b) an independent educational institution (other than a special school);
[(ba) an alternative provision Academy that is not an independent educational institution; **]** [1]
(c) a special school (not maintained by a local authority).

(8) In relation to Scotland, this section applies to—

(a) a school managed by an education authority;

(b) an independent school;

(c) a school in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.

(9) The responsible body of a school to which this section applies is—

(a) if the school is within subsection (7)(a), the local authority or governing body;

(b) if it is within subsection (7)(b) [, (ba)][2] or (c), the proprietor;

(c) if it is within subsection (8)(a), the education authority;

(d) if it is within subsection (8)(b), the proprietor;

(e) if it is within subsection (8)(c), the managers.

(10) In the application of section 26 for the purposes of subsection (3), none of the following is a relevant protected characteristic—

(a) gender reassignment;

(b) religion or belief;

(c) sexual orientation.

Notes

[1] Added by Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012/976 Sch.1 para.25(a) (April 1, 2012)

[2] Words inserted by Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012/976 Sch.1 para.25(b) (April 1, 2012)

Commencement

Pt 6 c. 1 s. 85(1)-(10)(c): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 85(1)-(10)(c): England, Wales, Scotland

Law In Force

86 Victimisation of pupils, etc. for conduct of parents, etc.

(1) This section applies for the purposes of section 27 in its application to section 85(4) or (5).

(2) The references to B in paragraphs (a) and (b) of subsection (1) of section 27 include a reference to a parent or sibling of the child in question.

(3) Giving false evidence or information, or making a false allegation, in good faith is not a protected act in a case where—

(a) the evidence or information is given, or the allegation is made, by a parent or sibling of the child, and

(b) the child has acted in bad faith.

(4) Giving false evidence or information, or making a false allegation, in bad faith, is a protected act in a case where—

(a) the evidence or information is given, or the allegation is made, by a parent or sibling of the child, and

(b) the child has acted in good faith.

(5) In this section—

"child" means a person who has not attained the age of 18;

"sibling" means a brother or sister, a half-brother or half-sister, or a stepbrother or stepsister.

Commencement

Pt 6 c. 1 s. 86(1)-(5) definition of "sibling": October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 86(1)-(5) definition of "sibling": England, Wales, Scotland

Law In Force

87 [Application of enforcement powers under education legislation] [1]

[(A1) Subsections (1) and (2) do not apply in the case of a school in Wales.] [2]

(1) Sections 496 and 497 of the Education Act 1996 [and section 70 of the Education (Scotland) Act 1980] [3] (powers to give directions where responsible body of school in default of obligations, etc.) apply to the performance of a duty under section 85.

(2) But neither of sections 496 and 497 of [the Education Act 1996] [4] applies to the performance of a duty under that section by the proprietor of an independent educational institution (other than a special school) [or an alternative provision Academy that is not an independent educational institution] [5] [; and section 70 of the Education (Scotland) Act 1980 does not apply to the performance of a duty under that section by the proprietor of an independent school] [6] .

[(3) In the case of a school in Wales—

(a) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 ("the 2013 Act") (intervention in conduct of maintained schools) applies to the performance of a duty under section 85, but as if—

(i) the only relevant grounds for intervention were grounds 5 and 6 in section 2 of that Act, and

(ii) sections 3 to 9 and 12 to 16 of that Act did not apply;

(b) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) applies to the performance of a duty under section 85, but as if—

(i) the only relevant grounds for intervention were grounds 1 and 2 in section 21 of that Act, and

(ii) sections 24 to 27 of that Act did not apply.

(4) But neither of Chapters 1 and 2 of Part 2 of the 2013 Act applies to the performance of a duty under section 85 by the proprietor of an independent educational institution (other than a special school).] [2]

Notes

1 Title substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.3 (October 1, 2010)

2 Amended by School Standards and Organisation (Wales) Act 2013 anaw. 1 Sch.5(1) para.11 (February 20, 2014 subject to savings specified in SI 2014/178 art.3)

3 Words inserted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.3(a) (October 1, 2010)

4 Words substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.3(b)(i) (October 1, 2010)

5 Words inserted by Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012/976 Sch.1 para.26 (April 1, 2012)

6 Words inserted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.3(b)(ii) (October 1, 2010)

Commencement

Pt 6 c. 1 s. 87(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 87(A1)-(4): England, Wales, Scotland

Law In Force

88 Disabled pupils: accessibility

Schedule 10 (accessibility) has effect.

Commencement

Pt 6 c. 1 s. 88: October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 88: England, Wales, Scotland

Law In Force

89 Interpretation and exceptions

(1) This section applies for the purposes of this Chapter.

(2) Nothing in this Chapter applies to anything done in connection with the content of the curriculum.

(3) "Pupil" —

(a) in relation to England and Wales, has the meaning given in section 3(1) of the Education Act 1996;

(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

(4) "Proprietor" —

(a) in relation to a school in England and Wales, has the meaning given in section 579(1) of the Education Act 1996;
(b) in relation to a school in Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

(5) "School" —
(a) in relation to England and Wales, has the meaning given in section 4 of the Education Act 1996;
(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

(6) A reference to a school includes a reference to an independent educational institution in England; and a reference to an independent educational institution in England is to be construed in accordance with Chapter 1 of Part 4 of the Education and Skills Act 2008.

(7) A reference to an independent educational institution is a reference to—
(a) an independent educational institution in England, or
(b) an independent school in Wales.

(8) "Independent school" —
(a) in relation to Wales, has the meaning given in section 463 of the Education Act 1996;
(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

(9) "Special school" has the meaning given in section 337 of the Education Act 1996.

(10) "Local authority" means—
(a) in relation to England, an English local authority within the meaning of section 162 of the Education and Inspections Act 2006;
(b) in relation to Wales, a Welsh local authority within the meaning of that section.

(11) "Education authority", in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.

(12) Schedule 11 (exceptions) has effect.

Commencement

Pt 6 c. 1 s. 89(1)-(12): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 1 s. 89(1)-(12): England, Wales, Scotland

CHAPTER 2

FURTHER AND HIGHER EDUCATION

Law In Force

90 Application of this Chapter

This Chapter does not apply to the protected characteristic of marriage and civil partnership.

Commencement

Pt 6 c. 2 s. 90: October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 2 s. 90: England, Wales, Scotland

Law In Force

91 Students: admission and treatment, etc.

(1) The responsible body of an institution to which this section applies must not discriminate against a person—

(a) in the arrangements it makes for deciding who is offered admission as a student;
(b) as to the terms on which it offers to admit the person as a student;
(c) by not admitting the person as a student.

(2) The responsible body of such an institution must not discriminate against a student—

(a) in the way it provides education for the student;
(b) in the way it affords the student access to a benefit, facility or service;
(c) by not providing education for the student;
(d) by not affording the student access to a benefit, facility or service;
(e) by excluding the student;
(f) by subjecting the student to any other detriment.

(3) The responsible body of such an institution must not discriminate against a disabled person—

(a) in the arrangements it makes for deciding upon whom to confer a qualification;
(b) as to the terms on which it is prepared to confer a qualification on the person;
(c) by not conferring a qualification on the person;
(d) by withdrawing a qualification from the person or varying the terms on which the person holds it.

(4) Subsection (3) applies only to disability discrimination.

(5) The responsible body of such an institution must not harass—

(a) a student;
(b) a person who has applied for admission as a student;
(c) a disabled person who holds or has applied for a qualification conferred by the institution.

(6) The responsible body of such an institution must not victimise a person—

(a) in the arrangements it makes for deciding who is offered admission as a student;
(b) as to the terms on which it offers to admit the person as a student;
(c) by not admitting the person as a student.

(7) The responsible body of such an institution must not victimise a student—

(a) in the way it provides education for the student;

(b) in the way it affords the student access to a benefit, facility or service;
(c) by not providing education for the student;
(d) by not affording the student access to a benefit, facility or service;
(e) by excluding the student;
(f) by subjecting the student to any other detriment.

(8) The responsible body of such an institution must not victimise a disabled person—
(a) in the arrangements it makes for deciding upon whom to confer a qualification;
(b) as to the terms on which it is prepared to confer a qualification on the person;
(c) by not conferring a qualification on the person;
(d) by withdrawing a qualification from the person or varying the terms on which the person holds it.

(9) A duty to make reasonable adjustments applies to the responsible body of such an institution.

(10) In relation to England and Wales, this section applies to—
(a) a university;
(b) any other institution within the higher education sector;
(c) an institution within the further education sector **[** ; **]** [1]
[(d) a 16 to 19 Academy. **]** [1]

(11) In relation to Scotland, this section applies to—
(a) a university;
(b) a designated institution;
(c) a college of further education.

(12) A responsible body is—
(a) in the case of an institution within subsection (10)(a), (b) or (c), the governing body;
[(aa) in the case of an institution within subsection (10)(d), the proprietor (within the meaning of the Education Act 1996); **]** [2]
(b) in the case of an institution within subsection (11)(a) or (b), the governing body;
(c) in the case of a college of further education under the management of a board of management, the board of management;
(d) in the case of any other college of further education, any board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors.

Notes

[1] Added by Education Act 2011 c. 21 Sch.13 para.20(2)(a) (April 1, 2012)

[2] Added by Education Act 2011 c. 21 Sch.13 para.20(2)(b) (April 1, 2012)

Commencement

Pt 6 c. 2 s. 91(1)-(12)(d): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 2 s. 91(1)-(12)(d): England, Wales, Scotland

Law In Force

92 Further and higher education courses

(1) The responsible body in relation to a course to which this section applies must not discriminate against a person—

(a) in the arrangements it makes for deciding who is enrolled on the course;
(b) as to the terms on which it offers to enrol the person on the course;
(c) by not accepting the person's application for enrolment.

(2) The responsible body in relation to such a course must not discriminate against a person who is enrolled on the course in the services it provides or offers to provide.

(3) The responsible body in relation to such a course must not harass a person who—

(a) seeks enrolment on the course;
(b) is enrolled on the course;
(c) is a user of services provided by the body in relation to the course.

(4) The responsible body in relation to such a course must not victimise a person—

(a) in the arrangements it makes for deciding who is enrolled on the course;
(b) as to the terms on which it offers to enrol the person on the course;
(c) by not accepting the person's application for enrolment.

(5) The responsible body in relation to such a course must not victimise a person who is enrolled on the course in the services it provides or offers to provide.

(6) A duty to make reasonable adjustments applies to the responsible body.

(7) This section applies to—

(a) a course of further or higher education secured by a responsible body in England or Wales;
(b) a course of education provided by the governing body of a maintained school under section 80 of the School Standards and Framework Act 1998;
(c) a course of further education secured by an education authority in Scotland.

(8) A responsible body is—

(a) a local authority in England or Wales, for the purposes of subsection (7)(a);
(b) the governing body of a maintained school, for the purposes of subsection (7)(b);
(c) an education authority in Scotland, for the purposes of subsection (7)(c).

(9) In this section—

"course", in relation to further education, includes each component part of a course if there is no requirement imposed on persons registered for a component part of the course to register for another component part of the course;
"enrolment" includes registration for a component part of a course;
"maintained school" has the meaning given in section 20(7) of the School Standards and Framework Act 1998;
"services" means services of any description which are provided wholly or mainly for persons enrolled on a course to which this section applies.

Commencement

Pt 6 c. 2 s. 92(1)-(9) definition of "services": October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 2 s. 92(1)-(9) definition of "services": England, Wales, Scotland

Law In Force

93 Recreational or training facilities

(1) The responsible body in relation to facilities to which this section applies must not discriminate against a person—

(a) in the arrangements it makes for deciding who is provided with the facilities;
(b) as to the terms on which it offers to provide the facilities to the person;
(c) by not accepting the person's application for provision of the facilities.

(2) The responsible body in relation to such facilities must not discriminate against a person who is provided with the facilities in the services it provides or offers to provide.

(3) The responsible body in relation to such facilities must not harass a person who—

(a) seeks to have the facilities provided;
(b) is provided with the facilities;
(c) is a user of services provided by the body in relation to the facilities.

(4) The responsible body in relation to such facilities must not victimise a person—

(a) in the arrangements it makes for deciding who is provided with the facilities;
(b) as to the terms on which it offers to provide the facilities to the person;
(c) by not accepting the person's application for provision of the facilities.

(5) The responsible body in relation to such facilities must not victimise a person who is provided with the facilities in the services it provides or offers to provide.

(6) A duty to make reasonable adjustments applies to the responsible body.

(7) This section applies to—

(a) facilities secured by a local authority in England under section 507A or 507B of the Education Act 1996;
(b) facilities secured by a local authority in Wales under section 508 of that Act;
(c) recreational or training facilities provided by an education authority in Scotland.

(8) A responsible body is—

(a) a local authority in England, for the purposes of subsection (7)(a);
(b) a local authority in Wales, for the purposes of subsection (7)(b);
(c) an education authority in Scotland, for the purposes of subsection (7)(c).

(9) This section does not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 18.

Commencement

Pt 6 c. 2 s. 93(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(6)(a))

Extent

Pt 6 c. 2 s. 93(1)-(9): England, Wales, Scotland

Law In Force

94 Interpretation and exceptions

(1) This section applies for the purposes of this Chapter.

(2) Nothing in this Chapter applies to anything done in connection with the content of the curriculum.

(3) A reference to a student, in relation to an institution, is a reference to a person for whom education is provided by the institution.

(4) A reference to a university includes a reference to a university college and a college, school or hall of a university.

(5) A reference to an institution within the further or higher education sector is to be construed in accordance with section 91 of the Further and Higher Education Act 1992.

(6) "Further education" —

(a) in relation to England and Wales, has the meaning given in section 2 of the Education Act 1996;

(b) in relation to Scotland, has the meaning given in section 1(3) of the Further and Higher Education (Scotland) Act 1992.

(7) "Higher education" —

(a) in relation to England and Wales, means education provided by means of a course of a description mentioned in Schedule 6 to the Education Reform Act 1988;

(b) in relation to Scotland, has the meaning given in section 38 of the Further and Higher Education (Scotland) Act 1992.

(8) "College of further education" has the meaning given in section 36 of the Further and Higher Education (Scotland) Act 1992.

(9) "Designated institution" has the meaning given in section 44 of that Act.

(10) "Local authority" means—

(a) in relation to England, an English local authority within the meaning of section 162 of the Education and Inspections Act 2006;

(b) in relation to Wales, a Welsh local authority within the meaning of that section.

(11) "Education authority" has the meaning given by section 135(1) of the Education (Scotland) Act 1980.

[(11A) A reference to conferring a qualification includes a reference—

(a) to renewing or extending the conferment of a qualification;

(b) to authenticating a qualification conferred by another person.

] [1]

(12) Schedule 12 (exceptions) has effect.

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.4 (October 1, 2010)

Commencement

Pt 6 c. 2 s. 94(1)-(11): October 1, 2010 (SI 2010/2317 art. 2(6)(b))

Pt 6 c. 2 s. 94(12): August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(v); SI 2010/2317 art. 2(6)(b))

Extent

Pt 6 c. 2 s. 94(1)-(12): England, Wales, Scotland

CHAPTER 3

GENERAL QUALIFICATIONS BODIES

Law In Force

95 Application of this Chapter

This Chapter does not apply to the protected characteristic of marriage and civil partnership.

Commencement

Pt 6 c. 3 s. 95: October 1, 2010 (SI 2010/2317 art. 2(6)(c))

Extent

Pt 6 c. 3 s. 95: England, Wales, Scotland

Law In Force

96 Qualifications bodies

(1) A qualifications body (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding upon whom to confer a relevant qualification;

(b) as to the terms on which it is prepared to confer a relevant qualification on B;

(c) by not conferring a relevant qualification on B.

(2) A qualifications body (A) must not discriminate against a person (B) upon whom A has conferred a relevant qualification—

(a) by withdrawing the qualification from B;

(b) by varying the terms on which B holds the qualification;

(c) by subjecting B to any other detriment.

(3) A qualifications body must not, in relation to conferment by it of a relevant qualification, harass—

(a) a person who holds the qualification, or

(b) a person who applies for it.

(4) A qualifications body (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding upon whom to confer a relevant qualification;

(b) as to the terms on which it is prepared to confer a relevant qualification on B;

(c) by not conferring a relevant qualification on B.

(5) A qualifications body (A) must not victimise a person (B) upon whom A has conferred a relevant qualification—

(a) by withdrawing the qualification from B;

(b) by varying the terms on which B holds the qualification;

(c) by subjecting B to any other detriment.

(6) A duty to make reasonable adjustments applies to a qualifications body.

(7) Subsection (6) does not apply to the body in so far as the appropriate regulator specifies provisions, criteria or practices in relation to which the body—

(a) is not subject to a duty to make reasonable adjustments;

(b) is subject to a duty to make reasonable adjustments, but in relation to which such adjustments as the regulator specifies should not be made.

(8) For the purposes of subsection (7) the appropriate regulator must have regard to—

(a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities;

(b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred;

(c) the need to maintain public confidence in the qualification.

(9) The appropriate regulator—

(a) must not specify any matter for the purposes of subsection (7) unless it has consulted such persons as it thinks appropriate;

(b) must publish matters so specified (including the date from which they are to have effect) in such manner as is prescribed.

(10) The appropriate regulator is—

(a) in relation to a qualifications body that confers qualifications in England, a person prescribed by a Minister of the Crown;

(b) in relation to a qualifications body that confers qualifications in Wales, a person prescribed by the Welsh Ministers;

(c) in relation to a qualifications body that confers qualifications in Scotland, a person prescribed by the Scottish Ministers.

(11) For the purposes of subsection (10), a qualification is conferred in a part of Great Britain if there are, or may reasonably be expected to be, persons seeking to obtain the qualification who are or will be assessed for those purposes wholly or mainly in that part.

Commencement

Pt 6 c. 3 s. 96(1)-(8)(c), (9)(a): October 1, 2010 (SI 2010/2317 art. 2(6)(d))

Pt 6 c. 3 s. 96(9): September 3, 2010

Pt 6 c. 3 s. 96(9)(b): September 3, 2010 for the purpose of enabling regulations to be made; October 1, 2010 otherwise (SI 2010/2191 art. 2; SI 2010/2317 art. 2(6)(d))

Pt 6 c. 3 s. 96(10)-(11): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(6)(d))

Extent

Pt 6 c. 3 s. 96(1)-(11): England, Wales, Scotland

Law In Force

97 Interpretation

(1) This section applies for the purposes of section 96.

(2) A qualifications body is an authority or body which can confer a relevant qualification.

(3) A relevant qualification is an authorisation, qualification, approval or certification of such description as may be prescribed—

(a) in relation to conferments in England, by a Minister of the Crown;
(b) in relation to conferments in Wales, by the Welsh Ministers;
(c) in relation to conferments in Scotland, by the Scottish Ministers.

(4) An authority or body is not a qualifications body in so far as—

(a) it is the responsible body of a school to which section 85 applies,
(b) it is the governing body of an institution to which section 91 applies,
(c) it exercises functions under the Education Acts, or
(d) it exercises functions under the Education (Scotland) Act 1980.

(5) A qualifications body does not include an authority or body of such description, or in such circumstances, as may be prescribed.

(6) A reference to conferring a relevant qualification includes a reference—

(a) to renewing or extending the conferment of a relevant qualification;
(b) to authenticating a relevant qualification conferred by another person.

(7) A reference in section 96(8), (10) or (11) to a qualification is a reference to a relevant qualification.

(8) Subsection (11) of section 96 applies for the purposes of subsection (3) of this section as it applies for the purposes of subsection (10) of that section.

Commencement

Pt 6 c. 3 s. 97(1)-(8): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(6)(d))

Extent

Pt 6 c. 3 s. 97-(8): England, Wales, Scotland

CHAPTER 4

MISCELLANEOUS

Law In Force

98 Reasonable adjustments

Schedule 13 (reasonable adjustments) has effect.

Commencement

Pt 6 c. 4 s. 98: October 1, 2010 except for the purpose specified in SI 2010/2137 art.2(6)(i); September 1, 2012 otherwise (SI 2010/2317 art. 2(6)(e), art. 2(6)(i); SI 2012/2184 art. 2(b))

Extent

Pt 6 c. 4 s. 98-: England, Wales, Scotland

Law In Force

99 Educational charities and endowments

Schedule 14 (educational charities and endowments) has effect.

Commencement

Pt 6 c. 4 s. 99: October 1, 2010 (SI 2010/2317 art. 2(6)(f))

Extent

Pt 6 c. 4 s. 99: England, Wales, Scotland

PART 7

ASSOCIATIONS

Preliminary

Law In Force

100 Application of this Part

(1) This Part does not apply to the protected characteristic of marriage and civil partnership.

(2) This Part does not apply to discrimination, harassment or victimisation—

(a) that is prohibited by Part 3 (services and public functions), Part 4 (premises), Part 5 (work) or Part 6 (education), or

(b) that would be so prohibited but for an express exception.

Commencement

Pt 7 s. 100(1)-(2)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 100-(2)(b): England, Wales, Scotland

Membership, etc.

Law In Force

101 Members and associates

(1) An association (A) must not discriminate against a person (B)—

(a) in the arrangements A makes for deciding who to admit to membership;

(b) as to the terms on which A is prepared to admit B to membership;

(c) by not accepting B's application for membership.

(2) An association (A) must not discriminate against a member (B)—

(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;

(b) by depriving B of membership;

(c) by varying B's terms of membership;

(d) by subjecting B to any other detriment.

(3) An association (A) must not discriminate against an associate (B)—

(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;

(b) by depriving B of B's rights as an associate;

(c) by varying B's rights as an associate;

(d) by subjecting B to any other detriment.

(4) An association must not harass—

(a) a member;

(b) a person seeking to become a member;
(c) an associate.

(5) An association (A) must not victimise a person (B)—
(a) in the arrangements A makes for deciding who to admit to membership;
(b) as to the terms on which A is prepared to admit B to membership;
(c) by not accepting B's application for membership.

(6) An association (A) must not victimise a member (B)—
(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;
(b) by depriving B of membership;
(c) by varying B's terms of membership;
(d) by subjecting B to any other detriment.

(7) An association (A) must not victimise an associate (B)—
(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;
(b) by depriving B of B's rights as an associate;
(c) by varying B's rights as an associate;
(d) by subjecting B to any other detriment.

Commencement

Pt 7 s. 101(1)-(7)(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 101-(7)(d): England, Wales, Scotland

Law In Force

102 Guests

(1) An association (A) must not discriminate against a person (B)—
(a) in the arrangements A makes for deciding who to invite, or who to permit to be invited, as a guest;
(b) as to the terms on which A is prepared to invite B, or to permit B to be invited, as a guest;
(c) by not inviting B, or not permitting B to be invited, as a guest.

(2) An association (A) must not discriminate against a guest (B) invited by A or with A's permission (whether express or implied)—
(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;
(b) by subjecting B to any other detriment.

(3) An association must not harass—
(a) a guest;
(b) a person seeking to be a guest.

(4) An association (A) must not victimise a person (B)—

(a) in the arrangements A makes for deciding who to invite, or who to permit to be invited, as a guest;

(b) as to the terms on which A is prepared to invite B, or to permit B to be invited, as a guest;

(c) by not inviting B, or not permitting B to be invited, as a guest.

(5) An association (A) must not victimise a guest (B) invited by A or with A's permission (whether express or implied)—

(a) in the way A affords B access, or by not affording B access, to a benefit, facility or service;

(b) by subjecting B to any other detriment.

Commencement

Pt 7 s. 102(1)-(5)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 102-(5)(b): England, Wales, Scotland

Law In Force

103 Sections 101 and 102: further provision

(1) A duty to make reasonable adjustments applies to an association.

(2) In the application of section 26 for the purposes of section 101(4) or 102(3), neither of the following is a relevant protected characteristic—

(a) religion or belief;

(b) sexual orientation.

Commencement

Pt 7 s. 103(1)-(2)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 103-(2)(b): England, Wales, Scotland

Special provision for political parties

Law In Force With Amendments Pending

104 Selection of candidates

(1) This section applies to an association which is a registered political party.

(2) A person does not contravene this Part only by acting in accordance with selection arrangements.

(3) Selection arrangements are arrangements—

(a) which the party makes for regulating the selection of its candidates in a relevant election,

(b) the purpose of which is to reduce inequality in the party's representation in the body concerned, and

(c) which, subject to subsection (7), are a proportionate means of achieving that purpose.

(4) The reference in subsection (3)(b) to inequality in a party's representation in a body is a reference to inequality between—

(a) the number of the party's candidates elected to be members of the body who share a protected characteristic, and

(b) the number of the party's candidates so elected who do not share that characteristic.

(5) For the purposes of subsection (4), persons share the protected characteristic of disability if they are disabled persons (and section 6(3)(b) is accordingly to be ignored).

(6) Selection arrangements do not include short-listing only such persons as have a particular protected characteristic.

(7) But subsection (6) does not apply to the protected characteristic of sex; and subsection (3)(c) does not apply to short-listing in reliance on this subsection.

(8) The following elections are relevant elections—

(a) Parliamentary Elections;

(b) **[…]**[1]

(c) elections to the Scottish Parliament;

(d) elections to the National Assembly for Wales;

(e) local government elections within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983 (excluding elections for the Mayor of London).

Notes

[1] Repealed by European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018/1310 Sch.1(1) para.1 (December 31, 2020 as specified in SI 2019/1310 reg.1 as amended by SI 2019/1389 reg.2(2))

Amendments Pending

Pt 7 s. 104(7): repealed by Equality Act 2010 c. 15, Pt 7 s. 105(1) (December 31, 2030: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise)

Pt 7 s. 104(3)(c): words repealed by Equality Act 2010 c. 15, Pt 7 s. 105(1) (December 31, 2030: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise)

Commencement

Pt 7 s. 104(1)-(8)(e): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 104-(8)(e): England, Wales, Scotland

Law In Force

105 Time-limited provision

(1) Section 104(7) and the words “, subject to subsection (7),” in section 104(3)(c) are repealed at the end of 2030 unless an order is made under subsection (2).

(2) At any time before the end of 2030, a Minister of the Crown may by order provide that subsection (1) is to have effect with the substitution of a later time for that for the time being specified there.

(3) In section 3 of the Sex Discrimination (Election Candidates) Act 2002 (expiry of that Act), in subsection (1) for “2015” substitute “2030”.

(4) The substitution made by subsection (3) does not affect the power to substitute a later time by order under section 3 of that Act.

Commencement

Pt 7 s. 105(1)-(4): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(a); SI 2012/1569 art. 3(b))

Extent

Pt 7 s. 105-(2): England, Wales, Scotland

Pt 7 s. 105(3)-(4): United Kingdom

Not Yet In Force With Amendments Pending

106 Information about diversity in range of candidates, etc.

(1) This section applies to an association which is a registered political party.

(2) If the party had candidates at a relevant election, the party must, in accordance with regulations, publish information relating to protected characteristics of persons who come within a description prescribed in the regulations in accordance with subsection (3).

(3) One or more of the following descriptions may be prescribed for the purposes of subsection (2)—

(a) successful applicants for nomination as a candidate at the relevant election;
(b) unsuccessful applicants for nomination as a candidate at that election;
(c) candidates elected at that election;
(d) candidates who are not elected at that election.

(4) The duty imposed by subsection (2) applies only in so far as it is possible to publish information in a manner that ensures that no person to whom the information relates can be identified from that information.

(5) The following elections are relevant elections—

(a) Parliamentary Elections;
(b) elections to the European Parliament;
(c) elections to the Scottish Parliament;
(d) elections to the National Assembly for Wales.

(6) This section does not apply to the following protected characteristics—

(a) marriage and civil partnership;
(b) pregnancy and maternity.

(7) The regulations may provide that the information to be published—
(a) must (subject to subsection (6)) relate to all protected characteristics or only to such as are prescribed;
(b) must include a statement, in respect of each protected characteristic to which the information relates, of the proportion that the number of persons who provided the information to the party bears to the number of persons who were asked to provide it.

(8) Regulations under this section may prescribe—
(a) descriptions of information;
(b) descriptions of political party to which the duty is to apply;
(c) the time at which information is to be published;
(d) the form and manner in which information is to be published;
(e) the period for which information is to be published.

(9) Provision by virtue of subsection (8)(b) may, in particular, provide that the duty imposed by subsection (2) does not apply to a party which had candidates in fewer constituencies in the election concerned than a prescribed number.

(10) Regulations under this section—
(a) may provide that the duty imposed by subsection (2) applies only to such relevant elections as are prescribed;
(b) may provide that a by-election or other election to fill a vacancy is not to be treated as a relevant election or is to be so treated only to a prescribed extent;
(c) may amend this section so as to provide for the duty imposed by subsection (2) to apply in the case of additional descriptions of election.

(11) Nothing in this section authorises a political party to require a person to provide information to it.

Amendments Pending

Pt 7 s. 106(5)(b): repealed by European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018/1310 Sch. 1(1) para. 1 (date to be appointed: repeal came into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1 but could not take effect until the commencement of 2010 c.15 s.106(5)(b))

Commencement

Pt 7 s. 106(1)-(11): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 7 s. 106(1)-(11): England, Wales, Scotland

Supplementary

Law In Force

107 Interpretation and exceptions

(1) This section applies for the purposes of this Part.

(2) An "association" is an association of persons—

(a) which has at least 25 members, and

(b) admission to membership of which is regulated by the association's rules and involves a process of selection.

(3) A Minister of the Crown may by order amend subsection (2)(a) so as to substitute a different number for that for the time being specified there.

(4) It does not matter—

(a) whether an association is incorporated;

(b) whether its activities are carried on for profit.

(5) Membership is membership of any description; and a reference to a member is to be construed accordingly.

(6) A person is an "associate", in relation to an association, if the person—

(a) is not a member of the association, but

(b) in accordance with the association's rules, has some or all of the rights as a member as a result of being a member of another association.

(7) A reference to a registered political party is a reference to a party registered in the Great Britain register under Part 2 of the Political Parties, Elections and Referendums Act 2000.

(8) Schedule 15 (reasonable adjustments) has effect.

(9) Schedule 16 (exceptions) has effect.

Commencement

Pt 7 s. 107(1)-(9): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(b); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(b); SI 2012/1569 art. 3(c))

Extent

Pt 7 s. 107-(9): England, Wales, Scotland

PART 8

PROHIBITED CONDUCT: ANCILLARY

Law In Force

108 Relationships that have ended

(1) A person (A) must not discriminate against another (B) if—

(a) the discrimination arises out of and is closely connected to a relationship which used to exist between them, and

(b) conduct of a description constituting the discrimination would, if it occurred during the relationship, contravene this Act.

(2) A person (A) must not harass another (B) if—

(a) the harassment arises out of and is closely connected to a relationship which used to exist between them, and

(b) conduct of a description constituting the harassment would, if it occurred during the relationship, contravene this Act.

(3) It does not matter whether the relationship ends before or after the commencement of this section.

(4) A duty to make reasonable adjustments applies to A **[**if B is**]**[1] placed at a substantial disadvantage as mentioned in section 20.

(5) For the purposes of subsection (4), sections 20, 21 and 22 and the applicable Schedules are to be construed as if the relationship had not ended.

(6) For the purposes of Part 9 (enforcement), a contravention of this section relates to the Part of this Act that would have been contravened if the relationship had not ended.

(7) But conduct is not a contravention of this section in so far as it also amounts to victimisation of B by A.

Notes

[1] Words substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.5 (October 1, 2010)

Commencement

Pt 8 s. 108(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(8))

Extent

Pt 8 s. 108(1)-(7): England, Wales, Scotland

Law In Force

109 Liability of employers and principals

(1) Anything done by a person (A) in the course of A's employment must be treated as also done by the employer.

(2) Anything done by an agent for a principal, with the authority of the principal, must be treated as also done by the principal.

(3) It does not matter whether that thing is done with the employer's or principal's knowledge or approval.

(4) In proceedings against A's employer (B) in respect of anything alleged to have been done by A in the course of A's employment it is a defence for B to show that B took all reasonable steps to prevent A—

(a) from doing that thing, or
(b) from doing anything of that description.

(5) This section does not apply to offences under this Act (other than offences under Part 12 (disabled persons: transport)).

Commencement

Pt 8 s. 109(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(8))

Extent

Pt 8 s. 109(1)-(5): England, Wales, Scotland

Law In Force

110 Liability of employees and agents

(1) A person (A) contravenes this section if—
(a) A is an employee or agent,
(b) A does something which, by virtue of section 109(1) or (2), is treated as having been done by A's employer or principal (as the case may be), and
(c) the doing of that thing by A amounts to a contravention of this Act by the employer or principal (as the case may be).

(2) It does not matter whether, in any proceedings, the employer is found not to have contravened this Act by virtue of section 109(4).

(3) A does not contravene this section if—
(a) A relies on a statement by the employer or principal that doing that thing is not a contravention of this Act, and
(b) it is reasonable for A to do so.

(4) A person (B) commits an offence if B knowingly or recklessly makes a statement mentioned in subsection (3)(a) which is false or misleading in a material respect.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[(5A) A does not contravene this section if A—
(a) does not conduct a relevant marriage,
(b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage, or
(c) does not consent to a relevant marriage being conducted,
for the reason that the marriage is the marriage of a same sex couple.

(5B) Subsection (5A) applies to A only if A is within the meaning of "person" for the purposes of section 2 of the Marriage (Same Sex Couples) Act 2013; and other expressions used in subsection (5A) and section 2 of that Act have the same meanings in that subsection as in that section. **]** [1]

[(5BA) If A is a protected person, A does not contravene this section if A—

(a) does not allow religious premises to be used as the place at which two people register as civil partners of each other under Part 2 of the Civil Partnership Act 2004 ("the 2004 Act"), or

(b) does not provide, arrange, facilitate or participate in, or is not present at—

(i) an occasion during which two people register as civil partners of each other on religious premises under Part 2 of the 2004 Act, or

(ii) a ceremony or event in England or Wales to mark the formation of a civil partnership,

for the reason that the person does not wish to do things of that sort in relation to civil partnerships generally, or those between two people of the same sex, or those between two people of the opposite sex.

] [2]

[(5C) A does not contravene this section by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(5D) A does not contravene this section by refusing to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(5E) Subsections (5C) and (5D) apply only if A is an approved celebrant.

(5F) Expressions used in subsections (5C) to (5E) have the same meaning as in paragraph 25B of Schedule 3.

(5G) A chaplain does not contravene this section by refusing to solemnise a relevant Scottish forces marriage for the reason that the marriage is the marriage of two persons of the same sex.

(5H) Expressions used in subsection (5G) have the same meaning as in paragraph 25C of Schedule 3. **]** [3]

(6) Part 9 (enforcement) applies to a contravention of this section by A as if it were the contravention mentioned in subsection (1)(c).

(7) The reference in subsection (1)(c) to a contravention of this Act does not include a reference to disability discrimination in contravention of Chapter 1 of Part 6 (schools).

Notes

[1] Added by Marriage (Same Sex Couples) Act 2013 c. 30 Pt 1 s.2(5) (March 13, 2014: insertion has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

[2] Added by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Pt 3 reg.10(2) (December 2, 2019)

[3] Added by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(4) (December 16, 2014)

Commencement

Pt 8 s. 110(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(8))

Extent

Pt 8 s. 110(1)-(7): England, Wales, Scotland

Law In Force

111 Instructing, causing or inducing contraventions

(1) A person (A) must not instruct another (B) to do in relation to a third person (C) anything which contravenes Part 3, 4, 5, 6 or 7 or section 108(1) or (2) or 112(1) (a basic contravention).

(2) A person (A) must not cause another (B) to do in relation to a third person (C) anything which is a basic contravention.

(3) A person (A) must not induce another (B) to do in relation to a third person (C) anything which is a basic contravention.

(4) For the purposes of subsection (3), inducement may be direct or indirect.

(5) Proceedings for a contravention of this section may be brought—

(a) by B, if B is subjected to a detriment as a result of A's conduct;
(b) by C, if C is subjected to a detriment as a result of A's conduct;
(c) by the Commission.

(6) For the purposes of subsection (5), it does not matter whether—

(a) the basic contravention occurs;
(b) any other proceedings are, or may be, brought in relation to A's conduct.

(7) This section does not apply unless the relationship between A and B is such that A is in a position to commit a basic contravention in relation to B.

(8) A reference in this section to causing or inducing a person to do something includes a reference to attempting to cause or induce the person to do it.

(9) For the purposes of Part 9 (enforcement), a contravention of this section is to be treated as relating—

(a) in a case within subsection (5)(a), to the Part of this Act which, because of the relationship between A and B, A is in a position to contravene in relation to B;
(b) in a case within subsection (5)(b), to the Part of this Act which, because of the relationship between B and C, B is in a position to contravene in relation to C.

Commencement

Pt 8 s. 111(1)-(9)(b): October 1, 2010 (SI 2010/2317 art. 2(8))

Extent

Pt 8 s. 111(1)-(9)(b): England, Wales, Scotland

Law In Force

112 Aiding contraventions

(1) A person (A) must not knowingly help another (B) to do anything which contravenes Part 3, 4, 5, 6 or 7 or section 108(1) or (2) or 111 (a basic contravention).

(2) It is not a contravention of subsection (1) if—

(a) A relies on a statement by B that the act for which the help is given does not contravene this Act, and

(b) it is reasonable for A to do so.

(3) B commits an offence if B knowingly or recklessly makes a statement mentioned in subsection (2)(a) which is false or misleading in a material respect.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) For the purposes of Part 9 (enforcement), a contravention of this section is to be treated as relating to the provision of this Act to which the basic contravention relates.

(6) The reference in subsection (1) to a basic contravention does not include a reference to disability discrimination in contravention of Chapter 1 of Part 6 (schools).

Commencement

Pt 8 s. 112(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(8))

Extent

Pt 8 s. 112(1)-(6): England, Wales, Scotland

PART 9

ENFORCEMENT

CHAPTER 1

INTRODUCTORY

Law In Force

113 Proceedings

(1) Proceedings relating to a contravention of this Act must be brought in accordance with this Part.

(2) Subsection (1) does not apply to proceedings under Part 1 of the Equality Act 2006.

(3) Subsection (1) does not prevent—

(a) a claim for judicial review;
(b) proceedings under the Immigration Acts;
(c) proceedings under the Special Immigration Appeals Commission Act 1997;
(d) in Scotland, an application to the supervisory jurisdiction of the Court of Session.

(4) This section is subject to any express provision of this Act conferring jurisdiction on a court or tribunal.

(5) The reference to a contravention of this Act includes a reference to a breach of an equality clause or rule.

(6) Chapters 2 and 3 do not apply to proceedings relating to an equality clause or rule except in so far as Chapter 4 provides for that.

(7) This section does not apply to—

(a) proceedings for an offence under this Act;

(b) proceedings relating to a penalty under Part 12 (disabled persons: transport).

Commencement

Pt 9 c. 1 s. 113(1)-(7)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(a))

Extent

Pt 9 c. 1 s. 113(1)-(7)(b): England, Wales, Scotland

CHAPTER 2

CIVIL COURTS

Law In Force

114 Jurisdiction

(1) **[** The county court **]** [1] or, in Scotland, the sheriff has jurisdiction to determine a claim relating to—

(a) a contravention of Part 3 (services and public functions);

(b) a contravention of Part 4 (premises);

(c) a contravention of Part 6 (education);

(d) a contravention of Part 7 (associations);

(e) a contravention of section 108, 111 or 112 that relates to Part 3, 4, 6 or 7.

(2) Subsection (1)(a) does not apply to a claim within section 115.

(3) Subsection (1)(c) does not apply to a claim within section 116.

(4) Subsection (1)(d) does not apply to a contravention of section 106.

(5) For the purposes of proceedings on a claim within subsection (1)(a)—

(a) a decision in proceedings on a claim mentioned in section 115(1) that an act is a contravention of Part 3 is binding;

(b) it does not matter whether the act occurs outside the United Kingdom.

(6) The county court or sheriff—

(a) must not grant an interim injunction or interdict unless satisfied that no criminal matter would be prejudiced by doing so;

(b) must grant an application to stay or sist proceedings under subsection (1) on grounds of prejudice to a criminal matter unless satisfied the matter will not be prejudiced.

(7) In proceedings in England and Wales on a claim within subsection (1), the power under section 63(1) of the County Courts Act 1984 (appointment of assessors) must be exercised unless the judge is satisfied that there are good reasons for not doing so.

(8) In proceedings in Scotland on a claim within subsection (1), the power under rule 44.3 of Schedule 1 to the Sheriff Court (Scotland) Act 1907 (appointment of assessors) must be exercised unless the sheriff is satisfied that there are good reasons for not doing so.

(9) The remuneration of an assessor appointed by virtue of subsection (8) is to be at a rate determined by the Lord President of the Court of Session.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(a) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 9 c. 2 s. 114(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(9)(a))

Extent

Pt 9 c. 2 s. 114(1)-(9): England, Wales, Scotland

Law In Force

115 Immigration cases

(1) A claim is within this section if it relates to the act of an immigration authority in taking a relevant decision and—

(a) the question whether the act is a contravention of Part 3 has been or could be raised on an appeal which is pending, or could be brought, under the immigration provisions, or

(b) it has been decided on an appeal under those provisions that the act is not a contravention of Part 3.

(2) The relevant decision is not—

(a) subject to challenge in proceedings on a claim within section 114(1)(a), or

(b) affected by the decision of a court in such proceedings.

(3) For the purposes of subsection (1)(a) a power to grant permission to appeal out of time must be ignored.

(4) Each of the following is an immigration authority—

(a) the Secretary of State;

(b) an immigration officer;

(c) a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971).

(5) The immigration provisions are—

(a) the Special Immigration Appeals Commission Act 1997, or

(b) Part 5 of the Nationality, Immigration and Asylum Act 2002.

(6) A relevant decision is—

(a) a decision under the Immigration Acts relating to the entitlement of a person to enter or remain in the United Kingdom;

(b) a decision on an appeal under the immigration provisions relating to a decision within paragraph (a).

(7) An appeal is pending if it is pending for the purposes of section 104 of the Nationality, Immigration and Asylum Act 2002 or (as the case may be) for the purposes of that section as it is applied by section 2(2)(j) of the Special Immigration Appeals Commission Act 1997.

[(8) This section applies in relation to reviews under **[** section 2D and 2E of the Special Immigration Appeals Commission Act 1997 **]** [2] as it applies in relation to appeals under the immigration provisions. **]** [1]

Notes

[1] Added by Justice and Security Act 2013 c. 18 Sch.2(2) para.12 (June 25, 2013 subject to transitional and savings provisions specified in SI 2013/1482 arts 3 and 4)

[2] Words inserted by Immigration Act 2014 c. 22 Sch.9(4) para.59 (October 20, 2014 subject to savings and transitional provisions as specified in SI 2014/2771 arts 9-11)

Commencement

Pt 9 c. 2 s. 115(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(9)(a))

Extent

Pt 9 c. 2 s. 115(1)-(8): England, Wales, Scotland

Law In Force

116 Education cases

(1) A claim is within this section if it may be made to—

(a) the First-tier Tribunal in accordance with Part 2 of Schedule 17,

(b) the **[** Education Tribunal for Wales **]** [1] in accordance with Part 2 of that Schedule, or

(c) **[** the First-tier Tribunal for Scotland Health and Education Chamber **]** [2] in accordance with Part 3 of that Schedule.

(2) A claim is also within this section if it must be made in accordance with appeal arrangements within the meaning of Part 4 of that Schedule.

(3) Schedule 17 (disabled pupils: enforcement) has effect.

Notes

[1] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(2) (September 1, 2021)

[2] Words substituted by First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018/4 (Scottish SI) Sch.2(1) para.4(2) (January 12, 2018 and has effect subject to transitional provisions and savings specified in SSI 2018/4 reg.4 and Sch.1)

Commencement

Pt 9 c. 2 s. 116(1)-(1)(b), (2): October 1, 2010

Pt 9 c. 2 s. 116(1)(c): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(c); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(c), art. 3(a))

Pt 9 c. 2 s. 116(3): August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 for the provisions specified in SI 2010/2317 art.2(9)(d); March 18, 2011 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(vi); SI 2010/2317 art. 2(9)(d), art. 3(b))

Extent

Pt 9 c. 2 s. 116(1)-(3): England, Wales, Scotland

Law In Force

117 National security

(1) Rules of court may, in relation to proceedings on a claim within section 114, confer power as mentioned in subsections (2) to (4); but a power so conferred is exercisable only if the court thinks it expedient to do so in the interests of national security.

(2) The rules may confer power to exclude from all or part of the proceedings—

(a) the claimant or pursuer;

(b) a representative of the claimant or pursuer;

(c) an assessor.

(3) The rules may confer power to permit a claimant, pursuer or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or part of the proceedings, to which the exclusion relates.

(4) The rules may confer power to take steps to keep secret all or part of the reasons for the court's decision.

(5) The Attorney General or, in Scotland, the Advocate General for Scotland may appoint a person to represent the interests of a claimant or pursuer in, or in any part of, proceedings to which an exclusion by virtue of subsection (2)(a) or (b) relates.

(6) A person (P) may be appointed under subsection (5) only if—

(a) in relation to proceedings in England and Wales, P is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation;

(b) in relation to proceedings in Scotland, P is an advocate or qualified to practice as a solicitor in Scotland.

(7) P is not responsible to the person whose interests P is appointed to represent.

Commencement

Pt 9 c. 2 s. 117(1)-(4): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(9)(e))

Pt 9 c. 2 s. 117(5)-(7): October 1, 2010 (SI 2010/2317 art. 2(9)(e))

Extent

Pt 9 c. 2 s. 117(1)-(7): England, Wales, Scotland

Law In Force

118 Time limits

(1) **[** Subject to **[** section 140AA **]**[2] proceedings **]**[1] on a claim within section 114 may not be brought after the end of—

(a) the period of 6 months starting with the date of the act to which the claim relates, or

(b) such other period as the county court or sheriff thinks just and equitable.

(2) If subsection (3) **[…]**[3] applies, subsection (1)(a) has effect as if for "6 months" there were substituted "9 months".

(3) This subsection applies if—

(a) the claim relates to the act of a qualifying institution, and

(b) a complaint relating to the act is referred under the student complaints scheme before the end of the period of 6 months starting with the date of the act.

(4) **[…]**[4]

(5) If it has been decided under the immigration provisions that the act of an immigration authority in taking a relevant decision is a contravention of Part 3 (services and public functions), subsection (1) has effect as if for paragraph (a) there were substituted—

> "(a) the period of 6 months starting with the day after the expiry of the period during which, as a result of section 114(2), proceedings could not be brought in reliance on section 114(1)(a);".

(6) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(7) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

(8) In this section—

"immigration authority", "immigration provisions" and "relevant decision" each have the meaning given in section 115;

"qualifying institution" has the meaning given in section 11 of the Higher Education Act 2004 **[** , and includes an institution which is treated as continuing to be a qualifying institution for the purposes of Part 2 of that Act (see section 20A(2) of that Act) **]** [5] ;
"the student complaints scheme" means a scheme for the review of qualifying complaints (within the meaning of section 12 of that Act) that is provided by the designated operator (within the meaning of section 13(5)(b) of that Act).

Notes

1 Words inserted by Cross-Border Mediation (EU Directive) Regulations 2011/1133 Pt 3 reg.55 (May 20, 2011)

2 Words substituted by Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019/469 Sch.1(1) para.17(2) (December 31, 2020: substitution has effect subject to savings and transitional provisions specified in SI 2019/469 reg.5 and Sch.2)

3 Words repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.64(13)(a) (June 25, 2013)

4 Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.64(13)(b) (June 25, 2013)

5 Words inserted by Higher Education and Research Act 2017 c. 29 Pt 2 s.89(6) (April 1, 2018)

Commencement

Pt 9 c. 2 s. 118(1)-(8) definition of "the student complaints scheme": October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 2 s. 118(1)-(8) definition of "the student complaints scheme": England, Wales, Scotland

Law In Force

119 Remedies

(1) This section applies if **[** the county court **]** [1] or the sheriff finds that there has been a contravention of a provision referred to in section 114(1).

(2) The county court has power to grant any remedy which could be granted by the High Court—
(a) in proceedings in tort;
(b) on a claim for judicial review.

(3) The sheriff has power to make any order which could be made by the Court of Session—
(a) in proceedings for reparation;
(b) on a petition for judicial review.

(4) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).

(5) Subsection (6) applies if the county court or sheriff—
(a) finds that a contravention of a provision referred to in section 114(1) is established by virtue of section 19, but
(b) is satisfied that the provision, criterion or practice was not applied with the intention of discriminating against the claimant or pursuer.

(6) The county court or sheriff must not make an award of damages unless it first considers whether to make any other disposal.

(7) The county court or sheriff must not grant a remedy other than an award of damages or the making of a declaration unless satisfied that no criminal matter would be prejudiced by doing so.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 9 c. 2 s. 119(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 2 s. 119(1)-(7): England, Wales, Scotland

CHAPTER 3

EMPLOYMENT TRIBUNALS

Law In Force

120 Jurisdiction

(1) An employment tribunal has, subject to section 121, jurisdiction to determine a complaint relating to—

(a) a contravention of Part 5 (work);

(b) a contravention of section 108, 111 or 112 that relates to Part 5.

(2) An employment tribunal has jurisdiction to determine an application by a responsible person (as defined by section 61) for a declaration as to the rights of that person and a worker in relation to a dispute about the effect of a non-discrimination rule.

(3) An employment tribunal also has jurisdiction to determine an application by the trustees or managers of an occupational pension scheme for a declaration as to their rights and those of a member in relation to a dispute about the effect of a non-discrimination rule.

(4) An employment tribunal also has jurisdiction to determine a question that—

(a) relates to a non-discrimination rule, and

(b) is referred to the tribunal by virtue of section 122.

(5) In proceedings before an employment tribunal on a complaint relating to a breach of a non-discrimination rule, the employer—

(a) is to be treated as a party, and

(b) is accordingly entitled to appear and be heard.

(6) Nothing in this section affects such jurisdiction as the High Court, **[** the county court **]** [1] , the Court of Session or the sheriff has in relation to a non-discrimination rule.

(7) Subsection (1)(a) does not apply to a contravention of section 53 in so far as the act complained of may, by virtue of an enactment, be subject to an appeal or proceedings in the nature of an appeal.

(8) In subsection (1), the references to Part 5 do not include a reference to section 60(1).

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 9 c. 3 s. 120(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 120(1)-(8): England, Wales, Scotland

Law In Force With Amendments Pending

121 Armed forces cases

(1) Section 120(1) does not apply to a complaint relating to an act done when the complainant was serving as a member of the armed forces unless—

(a) the complainant has made a service complaint about the matter, and

(b) the complaint has not been withdrawn.

[(2) Where the complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the 2006 Act, it is to be treated for the purposes of subsection (1)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person's or panel's decision expires, and

(b) either—

(i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of the 2006 Act (review of decision that appeal brought out of time cannot proceed), or

(ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person's or panel's decision cannot be proceeded with.

] [1]

(3)-(4) **[…]**[2]

(5) The making of a complaint to an employment tribunal in reliance on subsection (1) does not affect the continuation of **[** the procedures set out in service complaints regulations. **]** [3]

[(6) In this section—

"the 2006 Act" means the Armed Forces Act 2006;

"service complaints regulations" means regulations made under section 340B(1) of the 2006 Act.

] [4]

Notes

[1] Substituted by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.13(2) (January 1, 2016)

[2] Repealed by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.13(3) (January 1, 2016)

[3] Words substituted by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.13(4) (January 1, 2016)

[4] Added by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.13(5) (January 1, 2016)

Proposed Draft Amendments

Pt 9 c. 3 s. 121(2)(a): word repealed by Armed Forces Bill 2021-22 (HL Bill 42) Sch. 3 para. 8(a) (Lords' Committee Stage, Date to be appointed) (date to be appointed)

Pt 9 c. 3 s. 121(2)(aa): added by Armed Forces Bill 2021-22 (HL Bill 42) Sch. 3 para. 8(b) (Lords' Committee Stage, Date to be appointed) (date to be appointed)

Pt 9 c. 3 s. 121(2)(b)(i): word substituted by Armed Forces Bill 2021-22 (HL Bill 42) Sch. 3 para. 8(c) (Lords' Committee Stage, Date to be appointed) (date to be appointed)

Commencement

Pt 9 c. 3 s. 121(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 121(1)-(6) definition of "service complaints regulations": England, Wales, Scotland

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Law In Force

122 References by court to tribunal, etc.

(1) If it appears to a court in which proceedings are pending that a claim or counter-claim relating to a non-discrimination rule could more conveniently be determined by an employment tribunal, the court may strike out the claim or counter-claim.

(2) If in proceedings before a court a question arises about a non-discrimination rule, the court may (whether or not on an application by a party to the proceedings)—

(a) refer the question, or direct that it be referred by a party to the proceedings, to an employment tribunal for determination, and

(b) stay or sist the proceedings in the meantime.

Commencement

Pt 9 c. 3 s. 122(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 122(1)-(2)(b): England, Wales, Scotland

Law In Force

123 Time limits

(1) [Subject to [section 140B] [2] proceedings] [1] on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable.

(2) Proceedings may not be brought in reliance on section 121(1) after the end of—

(a) the period of 6 months starting with the date of the act to which the proceedings relate, or

(b) such other period as the employment tribunal thinks just and equitable.

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

Notes

1 Words inserted by Cross-Border Mediation (EU Directive) Regulations 2011/1133 Pt 3 reg.56 (May 20, 2011)

2 Words substituted by Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019/469 Sch.1(1) para.17(3) (December 31, 2020: substitution has effect subject to savings and transitional provisions specified in SI 2019/469 reg.5 and Sch.2)

Commencement

Pt 9 c. 3 s. 123(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 123(1)-(4)(b): England, Wales, Scotland

Law In Force

124 Remedies: general

(1) This section applies if an employment tribunal finds that there has been a contravention of a provision referred to in section 120(1).

(2) The tribunal may—

(a) make a declaration as to the rights of the complainant and the respondent in relation to the matters to which the proceedings relate;

(b) order the respondent to pay compensation to the complainant;

(c) make an appropriate recommendation.

(3) An appropriate recommendation is a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect **[** on the complainant **]** [1] of any matter to which the proceedings relate **[** . **]** [2]

(a)-(b) **[…]**[2]

(4) Subsection (5) applies if the tribunal—

(a) finds that a contravention is established by virtue of section 19, but

(b) is satisfied that the provision, criterion or practice was not applied with the intention of discriminating against the complainant.

(5) It must not make an order under subsection (2)(b) unless it first considers whether to act under subsection (2)(a) or (c).

(6) The amount of compensation which may be awarded under subsection (2)(b) corresponds to the amount which could be awarded by **[** the county court **]** [3] or the sheriff under section 119.

(7) If a respondent fails, without reasonable excuse, to comply with an appropriate recommendation **[…]**[4] , the tribunal may—

(a) if an order was made under subsection (2)(b), increase the amount of compensation to be paid;

(b) if no such order was made, make one.

Notes

1 Words inserted by Deregulation Act 2015 c. 20 s.2(1)(a) (October 1, 2015: insertion has effect subject to transitional provision specified in SI 2015/994 Sch.1 para.1)

2 Repealed by Deregulation Act 2015 c. 20 s.2(1)(b) (October 1, 2015: repeal has effect subject to transitional provision specified in SI 2015/994 Sch.1 para.1)

3 Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

4 Words repealed by Deregulation Act 2015 c. 20 s.2(2)(a) (October 1, 2015: repeal has effect subject to transitional provision specified in SI 2015/994 Sch.1 para.1)

Commencement

Pt 9 c. 3 s. 124(1)-(7)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 124(1)-(7)(b): England, Wales, Scotland

Repealed

125 […][1]

Notes

1 Repealed by Deregulation Act 2015 c. 20 s.2(2)(b) (October 1, 2015: repeal has effect subject to transitional provision specified in SI 2015/994 Sch.1 para.1)

Law In Force

126 Remedies: occupational pension schemes

(1) This section applies if an employment tribunal finds that there has been a contravention of a provision referred to in section 120(1) in relation to—

(a) the terms on which persons become members of an occupational pension scheme, or

(b) the terms on which members of an occupational pension scheme are treated.

(2) In addition to anything which may be done by the tribunal under section 124 the tribunal may also by order declare—

(a) if the complaint relates to the terms on which persons become members of a scheme, that the complainant has a right to be admitted to the scheme;

(b) if the complaint relates to the terms on which members of the scheme are treated, that the complainant has a right to membership of the scheme without discrimination.

(3) The tribunal may not make an order under subsection (2)(b) of section 124 unless—

(a) the compensation is for injured feelings, or

(b) the order is made by virtue of subsection (7) of that section.

(4) An order under subsection (2)—

(a) may make provision as to the terms on which or the capacity in which the claimant is to enjoy the admission or membership;

(b) may have effect in relation to a period before the order is made.

Commencement

Pt 9 c. 3 s. 126(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 3 s. 126(1)-(4)(b): England, Wales, Scotland

CHAPTER 4

EQUALITY OF TERMS

Law In Force

127 Jurisdiction

(1) An employment tribunal has, subject to subsection (6), jurisdiction to determine a complaint relating to a breach of an equality clause or rule.

(2) The jurisdiction conferred by subsection (1) includes jurisdiction to determine a complaint arising out of a breach of an equality clause or rule; and a reference in this Chapter to a complaint relating to such a breach is to be read accordingly.

(3) An employment tribunal also has jurisdiction to determine an application by a responsible person for a declaration as to the rights of that person and a worker in relation to a dispute about the effect of an equality clause or rule.

(4) An employment tribunal also has jurisdiction to determine an application by the trustees or managers of an occupational pension scheme for a declaration as to their rights and those of a member in relation to a dispute about the effect of an equality rule.

(5) An employment tribunal also has jurisdiction to determine a question that—

(a) relates to an equality clause or rule, and

(b) is referred to the tribunal by virtue of section 128(2).

(6) This section does not apply to a complaint relating to an act done when the complainant was serving as a member of the armed forces unless—

(a) the complainant has made a service complaint about the matter, and

(b) the complaint has not been withdrawn.

(7) **[** Subsections (2) to (6) of section 121 **]** [1] apply for the purposes of subsection (6) of this section as they apply for the purposes of subsection (1) of that section.

(8) In proceedings before an employment tribunal on a complaint relating to a breach of an equality rule, the employer—

(a) is to be treated as a party, and

(b) is accordingly entitled to appear and be heard.

(9) Nothing in this section affects such jurisdiction as the High Court, **[** the county court **]** [2] , the Court of Session or the sheriff has in relation to an equality clause or rule.

Notes

[1] Words substituted by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.14 (January 1, 2016)

[2] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 9 c. 4 s. 127(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 127(1)-(9): England, Wales, Scotland

Law In Force

128 References by court to tribunal, etc.

(1) If it appears to a court in which proceedings are pending that a claim or counter-claim relating to an equality clause or rule could more conveniently be determined by an employment tribunal, the court may strike out the claim or counter-claim.

(2) If in proceedings before a court a question arises about an equality clause or rule, the court may (whether or not on an application by a party to the proceedings)—

(a) refer the question, or direct that it be referred by a party to the proceedings, to an employment tribunal for determination, and

(b) stay or sist the proceedings in the meantime.

Commencement

Pt 9 c. 4 s. 128(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 128(1)-(2)(b): England, Wales, Scotland

Law In Force

129 Time limits

(1) This section applies to—

(a) a complaint relating to a breach of an equality clause or rule;

(b) an application for a declaration referred to in section 127(3) or (4).

(2) Proceedings on the complaint or application may not be brought in an employment tribunal after the end of the qualifying period.

(3) If the complaint or application relates to terms of work other than terms of service in the armed forces, the qualifying period is, in a case mentioned in the first column of the table, the period mentioned in the second column [, subject to [section 140B] [2]] [1] .

Case	*Qualifying period*
A standard case	The period of 6 months beginning with the last day of the employment or appointment.
A stable work case (but not if it is also a concealment or incapacity case (or both))	The period of 6 months beginning with the day on which the stable working relationship ended.
A concealment case (but not if it is also an incapacity case)	The period of 6 months beginning with the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact.
An incapacity case (but not if it is also a concealment case)	The period of 6 months beginning with the day on which the worker ceased to have the incapacity.
A case which is a concealment case and an incapacity case.	The period of 6 months beginning with the later of the days on which the period would begin if the case were merely a concealment or incapacity case.

(4) If the complaint or application relates to terms of service in the armed forces, the qualifying period is, in a case mentioned in the first column of the table, the period mentioned in the second column [, subject to section 140B] [3] .

Case	*Qualifying period*
A standard case	The period of 9 months beginning with the last day of the period of service during which the complaint arose.
A concealment case (but not if it is also an incapacity case)	The period of 9 months beginning with the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact.
An incapacity case (but not if it is also a concealment case)	The period of 9 months beginning with the day on which the worker ceased to have the incapacity.

Case	*Qualifying period*
A case which is a concealment case and an incapacity case.	The period of 9 months beginning with the later of the days on which the period would begin if the case were merely a concealment or incapacity case.

Notes

1 Words inserted by Cross-Border Mediation (EU Directive) Regulations 2011/1133 Pt 3 reg.57 (May 20, 2011)

2 Words substituted by Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019/469 Sch.1(1) para.17(4) (December 31, 2020: substitution has effect subject to savings and transitional provisions specified in SI 2019/469 reg.5 and Sch.2)

3 Words inserted by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.2 para.44(b) (April 6, 2014: insertion has effect subject to transitional provisions specified in 2013 c.24 s.28)

Commencement

Pt 9 c. 4 s. 129(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 129(1)-(4): England, Wales, Scotland

Law In Force

130 Section 129: supplementary

(1) This section applies for the purposes of section 129.

(2) A standard case is a case which is not—

(a) a stable work case,

(b) a concealment case,

(c) an incapacity case, or

(d) a concealment case and an incapacity case.

(3) A stable work case is a case where the proceedings relate to a period during which there was a stable working relationship between the worker and the responsible person (including any time after the terms of work had expired).

(4) A concealment case in proceedings relating to an equality clause is a case where—

(a) the responsible person deliberately concealed a qualifying fact from the worker, and

(b) the worker did not discover (or could not with reasonable diligence have discovered) the qualifying fact until after the relevant day.

(5) A concealment case in proceedings relating to an equality rule is a case where—

(a) the employer or the trustees or managers of the occupational pension scheme in question deliberately concealed a qualifying fact from the member, and

(b) the member did not discover (or could not with reasonable diligence have discovered) the qualifying fact until after the relevant day.

(6) A qualifying fact for the purposes of subsection (4) or (5) is a fact—

(a) which is relevant to the complaint, and

(b) without knowledge of which the worker or member could not reasonably have been expected to bring the proceedings.

(7) An incapacity case in proceedings relating to an equality clause with respect to terms of work other than terms of service in the armed forces is a case where the worker had an incapacity during the period of 6 months beginning with the later of—

(a) the relevant day, or

(b) the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from the worker by the responsible person.

(8) An incapacity case in proceedings relating to an equality clause with respect to terms of service in the armed forces is a case where the worker had an incapacity during the period of 9 months beginning with the later of—

(a) the last day of the period of service during which the complaint arose, or

(b) the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from the worker by the responsible person.

(9) An incapacity case in proceedings relating to an equality rule is a case where the member of the occupational pension scheme in question had an incapacity during the period of 6 months beginning with the later of—

(a) the relevant day, or

(b) the day on which the member discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from the member by the employer or the trustees or managers of the scheme.

(10) The relevant day for the purposes of this section is—

(a) the last day of the employment or appointment, or

(b) the day on which the stable working relationship between the worker and the responsible person ended.

Commencement

Pt 9 c. 4 s. 130(1)-(10)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 130(1)-(10)(b): England, Wales, Scotland

Law In Force

131 Assessment of whether work is of equal value

(1) This section applies to proceedings before an employment tribunal on—

(a) a complaint relating to a breach of an equality clause or rule, or

(b) a question referred to the tribunal by virtue of section 128(2).

(2) Where a question arises in the proceedings as to whether one person's work is of equal value to another's, the tribunal may, before determining the question, require a member of the panel of independent experts to prepare a report on the question.

(3) The tribunal may withdraw a requirement that it makes under subsection (2); and, if it does so, it may—

(a) request the panel member to provide it with specified documentation;
(b) make such other requests to that member as are connected with the withdrawal of the requirement.

(4) If the tribunal requires the preparation of a report under subsection (2) (and does not withdraw the requirement), it must not determine the question unless it has received the report.

(5) Subsection (6) applies where—
(a) a question arises in the proceedings as to whether the work of one person (A) is of equal value to the work of another (B), and
(b) A's work and B's work have been given different values by a job evaluation study.

(6) The tribunal must determine that A's work is not of equal value to B's work unless it has reasonable grounds for suspecting that the evaluation contained in the study—
(a) was based on a system that discriminates because of sex, or
(b) is otherwise unreliable.

(7) For the purposes of subsection (6)(a), a system discriminates because of sex if a difference (or coincidence) between values that the system sets on different demands is not justifiable regardless of the sex of the person on whom the demands are made.

(8) A reference to a member of the panel of independent experts is a reference to a person—
(a) who is for the time being designated as such by the Advisory, Conciliation and Arbitration Service (ACAS) for the purposes of this section, and
(b) who is neither a member of the Council of ACAS nor one of its officers or members of staff.

(9) “Job evaluation study” has the meaning given in section 80(5).

Commencement

Pt 9 c. 4 s. 131(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 131(1)-(9): England, Wales, Scotland

Law In Force

132 Remedies in non-pensions cases

(1) This section applies to proceedings before a court or employment tribunal on a complaint relating to a breach of an equality clause, other than a breach with respect to membership of or rights under an occupational pension scheme.

(2) If the court or tribunal finds that there has been a breach of the equality clause, it may—
(a) make a declaration as to the rights of the parties in relation to the matters to which the proceedings relate;
(b) order an award by way of arrears of pay or damages in relation to the complainant.

(3) The court or tribunal may not order a payment under subsection (2)(b) in respect of a time before the arrears day.

(4) In relation to proceedings in England and Wales, the arrears day is, in a case mentioned in the first column of the table, the day mentioned in the second column.

Case	*Arrears day*
A standard case	The day falling 6 years before the day on which the proceedings were instituted.
A concealment case or an incapacity case (or a case which is both).	The day on which the breach first occurred.

(5) In relation to proceedings in Scotland, the arrears day is the first day of—

(a) the period of 5 years ending with the day on which the proceedings were commenced, or

(b) if the case involves a relevant incapacity, or a relevant fraud or error, **[** the period determined in accordance with section 135(6) and (7) **]** [1] .

Notes

[1] Words substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.6 (October 1, 2010)

Commencement

Pt 9 c. 4 s. 132(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 132(1)-(5)(b): England, Wales, Scotland

Law In Force

133 Remedies in pensions cases

(1) This section applies to proceedings before a court or employment tribunal on a complaint relating to—

(a) a breach of an equality rule, or

(b) a breach of an equality clause with respect to membership of, or rights under, an occupational pension scheme.

(2) If the court or tribunal finds that there has been a breach as referred to in subsection (1)—

(a) it may make a declaration as to the rights of the parties in relation to the matters to which the proceedings relate;

(b) it must not order arrears of benefits or damages or any other amount to be paid to the complainant.

(3) Subsection (2)(b) does not apply if the proceedings are proceedings to which section 134 applies.

(4) If the breach relates to a term on which persons become members of the scheme, the court or tribunal may declare that the complainant is entitled to be admitted to the scheme with effect from a specified date.

(5) A date specified for the purposes of subsection (4) must not be before 8 April 1976.

(6) If the breach relates to a term on which members of the scheme are treated, the court or tribunal may declare that the complainant is, in respect of a specified period, entitled to secure the rights that would have accrued if the breach had not occurred.

(7) A period specified for the purposes of subsection (6) must not begin before 17 May 1990.

(8) If the court or tribunal makes a declaration under subsection (6), the employer must provide such resources to the scheme as are necessary to secure for the complainant (without contribution or further contribution by the complainant or other members) the rights referred to in that subsection.

Commencement

Pt 9 c. 4 s. 133(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 133(1)-(8): England, Wales, Scotland

Law In Force

134 Remedies in claims for arrears brought by pensioner members

(1) This section applies to proceedings before a court or employment tribunal on a complaint by a pensioner member of an occupational pension scheme relating to a breach of an equality clause or rule with respect to a term on which the member is treated.

(2) If the court or tribunal finds that there has been a breach referred to in subsection (1), it may—

(a) make a declaration as to the rights of the complainant and the respondent in relation to the matters to which the proceedings relate;

(b) order an award by way of arrears of benefits or damages or of any other amount in relation to the complainant.

(3) The court or tribunal must not order an award under subsection (2)(b) in respect of a time before the arrears day.

(4) If the court or tribunal orders an award under subsection (2)(b), the employer must provide such resources to the scheme as are necessary to secure for the complainant (without contribution or further contribution by the complainant or other members) the amount of the award.

(5) In relation to proceedings in England and Wales, the arrears day is, in a case mentioned in the first column of the table, the day mentioned in the second column.

Case	*Arrears day*
A standard case	The day falling 6 years before the day on which the proceedings were commenced.
A concealment case or an incapacity case (or a case which is both).	The day on which the breach first occurred.

(6) In relation to proceedings in Scotland, the arrears day is the first day of—

(a) the period of 5 years ending with the day on which the proceedings were commenced, or

(b) if the case involves a relevant incapacity, or a relevant fraud or error, **[** the period determined in accordance with section 135(6) and (7) **]** [1] .

Notes

[1] Words substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.6 (October 1, 2010)

Commencement

Pt 9 c. 4 s. 134(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 134(1)-(6)(b): England, Wales, Scotland

Law In Force

135 Supplementary

(1) This section applies for the purposes of sections 132 to 134.

(2) A standard case is a case which is not—

(a) a concealment case,

(b) an incapacity case, or

(c) a concealment case and an incapacity case.

(3) A concealment case in relation to an equality clause is a case where—

(a) the responsible person deliberately concealed a qualifying fact (as defined by section 130) from the worker, and

(b) the worker commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker discovered (or could with reasonable diligence have discovered) the qualifying fact.

(4) A concealment case in relation to an equality rule is a case where—

(a) the employer or the trustees or managers of the occupational pension scheme in question deliberately concealed a qualifying fact (as defined by section 130) from the member, and

(b) the member commenced the proceedings before the end of the period of 6 years beginning with the day on which the member discovered (or could with reasonable diligence have discovered) the qualifying fact.

(5) An incapacity case is a case where the worker or member—

(a) had an incapacity when the breach first occurred, and

(b) commenced the proceedings before the end of the period of 6 years beginning with the day on which the worker or member ceased to have the incapacity.

(6) A case involves a relevant incapacity or a relevant fraud or error if the period of 5 years referred to in section 132(5)(a) **[** or 134(6)(a) **]** [1] is, as a result of subsection (7) below, reckoned as a period of more than **[** 5 years; and— **]** [2]

[(a) if, as a result of subsection (7), that period is reckoned as a period of more than 5 years but no more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is that extended period;

(b) if, as a result of subsection (7), that period is reckoned as a period of more than 20 years, the period for the purposes of section 132(5)(b) or (as the case may be) section 134(6)(b) is a period of 20 years. **]** [2]

(7) For the purposes of the reckoning referred to in subsection (6), no account is to be taken of time when the worker or member—

(a) had an incapacity, or

(b) was induced by a relevant fraud or error to refrain from commencing proceedings (not being a time after the worker or member could with reasonable diligence have discovered the fraud or error).

(8) For the purposes of subsection (7)—

(a) a fraud is relevant in relation to an equality clause if it is a fraud on the part of the responsible person;

(b) an error is relevant in relation to an equality clause if it is induced by the words or conduct of the responsible person;

(c) a fraud is relevant in relation to an equality rule if it is a fraud on the part of the employer or the trustees or managers of the scheme;

(d) an error is relevant in relation to an equality rule if it is induced by the words or conduct of the employer or the trustees or managers of the scheme.

(9) A reference in subsection (8) to the responsible person, the employer or the trustees or managers includes a reference to a person acting on behalf of the person or persons concerned.

(10) In relation to terms of service, a reference in section 132(5) or subsection (3) or (5)(b) of this section to commencing proceedings is to be read as a reference to making a service complaint.

(11) A reference to a pensioner member of a scheme includes a reference to a person who is entitled to the present payment of pension or other benefits derived through a member.

(12) In relation to proceedings before a court—

(a) a reference to a complaint is to be read as a reference to a claim, and

(b) a reference to a complainant is to be read as a reference to a claimant.

Notes

[1] Words inserted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.7(a) (October 1, 2010)

[2] Words and s.135(6)(a) and (b) substituted for words by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.7(b) (October 1, 2010)

Commencement

Pt 9 c. 4 s. 135(1)-(12)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(f))

Extent

Pt 9 c. 4 s. 135(1)-(12)(b): England, Wales, Scotland

CHAPTER 5

MISCELLANEOUS

Law In Force

136 Burden of proof

(1) This section applies to any proceedings relating to a contravention of this Act.

(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

(4) The reference to a contravention of this Act includes a reference to a breach of an equality clause or rule.

(5) This section does not apply to proceedings for an offence under this Act.

(6) A reference to the court includes a reference to—

(a) an employment tribunal;
(b) the Asylum and Immigration Tribunal;
(c) the Special Immigration Appeals Commission;
(d) the First-tier Tribunal;
(e) the **[** Education Tribunal for Wales **]** [1] ;
(f) **[** the First-tier Tribunal for Scotland Health and Education Chamber **]** [2] .

Notes

[1] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(3) (September 1, 2021)

[2] Words substituted by First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018/4 (Scottish SI) Sch.2(1) para.4(3) (January 12, 2018 and has effect subject to transitional provisions and savings specified in SSI 2018/4 reg.4 and Sch.1)

Commencement

Pt 9 c. 5 s. 136(1)-(6)(e): October 1, 2010 (SI 2010/2317 art. 2(9)(g))

Pt 9 c. 5 s. 136(6)(f): March 18, 2011 (SI 2010/2317 art. 3(c))

Extent

Pt 9 c. 5 s. 136(1)-(6)(f): England, Wales, Scotland

Law In Force

137 Previous findings

(1) A finding in relevant proceedings in respect of an act which has become final is to be treated as conclusive in proceedings under this Act.

(2) Relevant proceedings are proceedings before a court or employment tribunal under any of the following—

(a) section 19 or 20 of the Race Relations Act 1968;
(b) the Equal Pay Act 1970;
(c) the Sex Discrimination Act 1975;
(d) the Race Relations Act 1976;
(e) section 6(4A) of the Sex Discrimination Act 1986;
(f) the Disability Discrimination Act 1995;
(g) Part 2 of the Equality Act 2006;
(h) the Employment Equality (Religion and Belief) Regulations 2003 (S.I. 2003/1660);
(i) the Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661);
(j) the Employment Equality (Age) Regulations 2006 (S.I. 2006/1031);
(k) the Equality Act (Sexual Orientation) Regulations 2007 (S.I. 2007/1263).

(3) A finding becomes final—

(a) when an appeal against the finding is dismissed, withdrawn or abandoned, or
(b) when the time for appealing expires without an appeal having been brought.

Commencement

Pt 9 c. 5 s. 137(1)-(3)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(h))

Extent

Pt 9 c. 5 s. 137(1)-(3)(b): England, Wales, Scotland

Repealed

138 […][1]

Notes

[1] Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.66(1) (April 6, 2014: April 25, 2013 in relation to enabling the exercise on or after that date of any power (arising under or by virtue of that provision) to make provision by regulations, rules or order made by statutory instrument; April 6, 2014 otherwise)

Law In Force

139 Interest

(1) Regulations may make provision—

(a) for enabling an employment tribunal to include interest on an amount awarded by it in proceedings under this Act;
(b) specifying the manner in which, and the periods and rate by reference to which, the interest is to be determined.

(2) Regulations may modify the operation of an order made under section 14 of the Employment Tribunals Act 1996 (power to make provision as to interest on awards) in so far as it relates to an award in proceedings under this Act.

Commencement

Pt 9 c. 5 s. 139(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(9)(j))

Extent

Pt 9 c. 5 s. 139(1)-(2): England, Wales, Scotland

Law In Force

[139A Equal pay audits

(1) Regulations may make provision requiring an employment tribunal to order the respondent to carry out an equal pay audit in any case where the tribunal finds that there has been an equal pay breach.

(2) An equal pay breach is—

(a) a breach of an equality clause, or

(b) a contravention in relation to pay of section 39(2), 49(6) or 50(6), so far as relating to sex discrimination.

(3) An equal pay audit is an audit designed to identify action to be taken to avoid equal pay breaches occurring or continuing.

(4) The regulations may make further provision about equal pay audits, including provision about—

(a) the content of an audit;

(b) the powers and duties of a tribunal for deciding whether its order has been complied with;

(c) any circumstances in which an audit may be required to be published or may be disclosed to any person.

(5) The regulations must provide for an equal pay audit not to be ordered where the tribunal considers that—

(a) an audit completed by the respondent in the previous 3 years meets requirements prescribed for this purpose,

(b) it is clear without an audit whether any action is required to avoid equal pay breaches occurring or continuing,

(c) the breach the tribunal has found gives no reason to think that there may be other breaches, or

(d) the disadvantages of an equal pay audit would outweigh its benefits.

(6) The regulations may provide for an employment tribunal to have power, where a person fails to comply with an order to carry out an equal pay audit, to order that person to pay a penalty to the Secretary of State of not more than an amount specified in the regulations.

(7) The regulations may provide for that power—

(a) to be exercisable in prescribed circumstances;

(b) to be exercisable more than once, if the failure to comply continues.

(8) The first regulations made by virtue of subsection (6) must not specify an amount of more than £5,000.

(9) Sums received by the Secretary of State under the regulations must be paid into the Consolidated Fund.

(10) The first regulations under this section must specify an exemption period during which the requirement to order an equal pay audit does not apply in the case of a business that—

(a) had fewer than 10 employees immediately before a specified time, or

(b) was begun as a new business in a specified period.

(11) For the purposes of subsection (10)—

(a) "specified" means specified in the regulations, and

(b) the number of employees a business had or the time when a business was begun as a new business is to be determined in accordance with the regulations.

(12) Before making regulations under this section, a Minister of the Crown must consult any other Minister of the Crown with responsibility for employment tribunals.
] [1]

Notes

[1] Added by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.98(2) (April 25, 2013)

Extent

Pt 9 c. 5 s. 139A(1)-(12): England, Wales, Scotland

Law In Force

140 Conduct giving rise to separate proceedings

(1) This section applies in relation to conduct which has given rise to two or more separate proceedings under this Act, with at least one being for a contravention of section 111 (instructing, causing or inducing contraventions).

(2) A court may transfer proceedings to an employment tribunal.

(3) An employment tribunal may transfer proceedings to a court.

(4) A court or employment tribunal is to be taken for the purposes of this Part to have jurisdiction to determine a claim or complaint transferred to it under this section; accordingly—

(a) a reference to a claim within section 114(1) includes a reference to a claim transferred to a court under this section, and

(b) a reference to a complaint within section 120(1) includes a reference to a complaint transferred to an employment tribunal under this section.

(5) A court or employment tribunal may not make a decision that is inconsistent with an earlier decision in proceedings arising out of the conduct.

(6) "Court" means—

(a) in relation to proceedings in England and Wales, **[** the county court **]** [1] ;

(b) in relation to proceedings in Scotland, the sheriff.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 9 c. 5 s. 140(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(j))

Extent

Pt 9 c. 5 s. 140(1)-(6)(b): England, Wales, Scotland

Repealed

140A.— […][1]

Notes

[1] Repealed by Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019/469 Sch.1(1) para.17(5) (December 31, 2020: repeal has effect subject to savings and transitional provisions specified in SI 2019/469 reg.5 and Sch.2)

Law In Force

[140AA.— Extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes

(1) In this section—

(a) […][2]

[(b) "ADR entity" means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542);][3]

(c) […][4]

[(d) "ADR procedure" means a procedure for the out-of-court resolution of disputes through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;][5]

[(da) "consumer" means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;][6]

(e) "non-binding ADR procedure" means an ADR procedure the outcome of which is not binding on the parties;

[(f) "relevant dispute" means a dispute that—

(a) concerns obligations under a [sales contract or a service contract][3] , and

(b) is between a trader established in the United Kingdom or the European Union and a consumer resident in the United Kingdom,

which the parties attempt to settle by recourse to a non-binding ADR procedure [;][6]

][7]

[(g) "sales contract" means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;

(h) "service contract" means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;

(i) "trader" means a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf. **]** [6]

(2) Subsection (3) applies where—

(a) a time limit is set by section 118(1)(a) and (2) in relation to the whole or part of a relevant dispute;

(b) a non-binding ADR procedure in relation to the relevant dispute starts before the time limit expires; and

(c) if not extended by this section, the time limit would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings, the time limit expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).

(4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).

(5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.

(6) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity's rules regarding the submission of complaints.

(7) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—

(a) the parties reach an agreement in resolution of the relevant dispute;

(b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;

(c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;

(d) that the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;

(e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;

(f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.

(8) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.

(9) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.

(10) Where a court or tribunal has power under section 118(1)(b) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this section.
] [1]

Notes

1 Added by Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015/1392 Pt 3 reg.7(3) (July 9, 2015: insertion has effect subject to transitional provision specified in SI 2015/1392 reg.1(3))

2 Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(2)(a) (December 31, 2020: repeal has effect subject to transitional provisions specified in SI 2019/305 reg.10)

3 Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5 (December 31, 2020: commenced by an amendment)

4 Repealed by Alternative Dispute Resolution for Consumer Disputes (Amendment) (No. 2) Regulations 2015/1972 Pt 2 reg.5(2) (January 9, 2016)

5 Substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(2)(c) (December 31, 2020: substitution has effect subject to transitional provisions specified in SI 2019/305 reg.10)

6 Added by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5 (December 31, 2020: commenced by an amendment)

7 Substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(2)(d) (December 31, 2020: substitution has effect subject to transitional provisions specified in SI 2019/305 reg.10)

Extent

Pt 9 c. 5 s. 140AA(1)-(10): England, Wales, Scotland

Law In Force

[140B Extension of time limits to facilitate conciliation before institution of proceedings

(1) This section applies where a time limit is set by section 123(1)(a) or 129(3) or (4).**[…]**[2]

(2) In this section—

(a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

(3) In working out when the time limit set by section 123(1)(a) or 129(3) or (4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by section 123(1)(a) or 129(3) or (4) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) The power conferred on the employment tribunal by subsection (1)(b) of section 123 to extend the time limit set by subsection (1)(a) of that section is exercisable in relation to that time limit as extended by this section.
] [1]

Notes

[1] Added by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.2 para.45 (April 6, 2014: insertion has effect subject to transitional provisions specified in 2013 c.24 s.28)

[2] Words repealed by Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019/469 Sch.1(1) para.17(6) (December 31, 2020: repeal has effect subject to savings and transitional provisions specified in SI 2019/469 reg.5 and Sch.2)

Extent

Pt 9 c. 5 s. 140B(1)-(5): England, Wales, Scotland

Law In Force

141 Interpretation, etc.

(1) This section applies for the purposes of this Part.

(2) A reference to the responsible person, in relation to an equality clause or rule, is to be construed in accordance with Chapter 3 of Part 5.

(3) A reference to a worker is a reference to the person to the terms of whose work the proceedings in question relate; and, for the purposes of proceedings relating to an equality rule or a non-discrimination rule, a reference to a worker includes a reference to a member of the occupational pension scheme in question.

(4) A reference to the terms of a person's work is to be construed in accordance with Chapter 3 of Part 5.

(5) A reference to a member of an occupational pension scheme includes a reference to a prospective member.

(6) In relation to proceedings in England and Wales, a person has an incapacity if the person—

(a) has not attained the age of 18, or

(b) lacks capacity (within the meaning of the Mental Capacity Act 2005).

(7) In relation to proceedings in Scotland, a person has an incapacity if the person—

(a) has not attained the age of 16, or

(b) is incapable (within the meaning of the Adults with Incapacity (Scotland) Act 2000 (asp 4)).

[(8) "Service complaint" means a complaint made under section 340A(1) or (2) of the Armed Forces Act 2006. **]** [1]

(9) "Criminal matter" means—

(a) an investigation into the commission of an alleged offence;

(b) a decision whether to commence criminal proceedings;

(c) criminal proceedings.

Notes

[1] Substituted by Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19 Sch.1 para.15 (January 1, 2016)

Commencement

Pt 9 c. 5 s. 141(1)-(9)(c): October 1, 2010 (SI 2010/2317 art. 2(9)(j))

Extent

Pt 9 c. 5 s. 141(1)-(9)(c): England, Wales, Scotland

PART 10

CONTRACTS, ETC.

Contracts and other agreements

Law In Force

142 Unenforceable terms

(1) A term of a contract is unenforceable against a person in so far as it constitutes, promotes or provides for treatment of that or another person that is of a description prohibited by this Act.

(2) A relevant non-contractual term is unenforceable against a person in so far as it constitutes, promotes or provides for treatment of that or another person that is of a description prohibited by this Act, in so far as this Act relates to disability.

(3) A relevant non-contractual term is a term which—

(a) is a term of an agreement that is not a contract, and

(b) relates to the provision of an employment service within section 56(2)(a) to (e) or to the provision under a group insurance arrangement of facilities by way of insurance.

(4) A reference in subsection (1) or (2) to treatment of a description prohibited by this Act does not include—

(a) a reference to the inclusion of a term in a contract referred to in section 70(2)(a) or 76(2), or

(b) a reference to the failure to include a term in a contract as referred to in section 70(2)(b).

(5) Subsection (4) does not affect the application of section 148(2) to this section.

Commencement

Pt 10 s. 142(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(10)(a))

Extent

Pt 10 s. 142(1)-(5): England, Wales, Scotland

Law In Force

143 Removal or modification of unenforceable terms

(1) **[** The county court **]** [1] or the sheriff may, on an application by a person who has an interest in a contract or other agreement which includes a term that is unenforceable as a result of section 142, make an order for the term to be removed or modified.

(2) An order under this section must not be made unless every person who would be affected by it—

(a) has been given notice of the application (except where notice is dispensed with in accordance with rules of court), and

(b) has been afforded an opportunity to make representations to the county court or sheriff.

(3) An order under this section may include provision in respect of a period before the making of the order.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Pt 10 s. 143(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(10)(a))

Extent

Pt 10 s. 143(1)-(3): England, Wales, Scotland

Law In Force

144 Contracting out

(1) A term of a contract is unenforceable by a person in whose favour it would operate in so far as it purports to exclude or limit a provision of or made under this Act.

(2) A relevant non-contractual term (as defined by section 142) is unenforceable by a person in whose favour it would operate in so far as it purports to exclude or limit a provision of or made under this Act, in so far as the provision relates to disability.

(3) This section does not apply to a contract which settles a claim within section 114.

(4) This section does not apply to a contract which settles a complaint within section 120 if the contract—

(a) is made with the assistance of a conciliation officer, or

(b) is a qualifying [settlement agreement] [1] .

(5) A contract within subsection (4) includes a contract which settles a complaint relating to a breach of an equality clause or rule or of a non-discrimination rule.

(6) A contract within subsection (4) includes an agreement by the parties to a dispute to submit the dispute to arbitration if—

(a) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992, and

(b) the agreement is to submit the dispute to arbitration in accordance with the scheme.

Notes

[1] Words substituted by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 2 s.23(5) (July 29, 2013 as SI 2013/1648)

Commencement

Pt 10 s. 144(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(10)(a))

Extent

Pt 10 s. 144(1)-(6)(b): England, Wales, Scotland

Collective agreements and rules of undertakings

Law In Force

145 Void and unenforceable terms

(1) A term of a collective agreement is void in so far as it constitutes, promotes or provides for treatment of a description prohibited by this Act.

(2) A rule of an undertaking is unenforceable against a person in so far as it constitutes, promotes or provides for treatment of the person that is of a description prohibited by this Act.

Commencement

Pt 10 s. 145(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(10)(a))

Extent

Pt 10 s. 145(1)-(2): England, Wales, Scotland

Law In Force

146 Declaration in respect of void term, etc.

(1) A qualifying person (P) may make a complaint to an employment tribunal that a term is void, or that a rule is unenforceable, as a result of section 145.

(2) But subsection (1) applies only if—

(a) the term or rule may in the future have effect in relation to P, and

(b) where the complaint alleges that the term or rule provides for treatment of a description prohibited by this Act, P may in the future be subjected to treatment that would (if P were subjected to it in present circumstances) be of that description.

(3) If the tribunal finds that the complaint is well-founded, it must make an order declaring that the term is void or the rule is unenforceable.

(4) An order under this section may include provision in respect of a period before the making of the order.

(5) In the case of a complaint about a term of a collective agreement, where the term is one made by or on behalf of a person of a description specified in the first column of the table, a qualifying person is a person of a description specified in the second column.

Description of person who made collective agreement	*Qualifying person*
Employer	A person who is, or is seeking to be, an employee of that employer
Organisation of employers	A person who is, or is seeking to be, an employee of an employer who is a member of that organisation
Association of organisations of employers	A person who is, or is seeking to be, an employee of an employer who is a member of an organisation in that association

(6) In the case of a complaint about a rule of an undertaking, where the rule is one made by or on behalf of a person of a description specified in the first column of the table, a qualifying person is a person of a description specified in the second column.

Description of person who made rule of undertaking	*Qualifying person*
Employer	A person who is, or is seeking to be, an employee of that employer
Trade organisation or qualifications body	A person who is, or is seeking to be, a member of the organisation or body
	A person upon whom the body has conferred a relevant qualification
	A person seeking conferment by the body of a relevant qualification

Commencement

Pt 10 s. 146(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(10)(a))

Extent

Pt 10 s. 146(1)-(6): England, Wales, Scotland

Supplementary

Law In Force

147 Meaning of Words substituted by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 2 s.23(6) (July 29, 2013 as SI 2013/1648)"qualifying settlement agreement"

(1) This section applies for the purposes of this Part.

(2) A qualifying **[** settlement agreement **]** [1] is a contract in relation to which each of the conditions in subsection (3) is met.

(3) Those conditions are that—

(a) the contract is in writing,

(b) the contract relates to the particular complaint,

(c) the complainant has, before entering into the contract, received advice from an independent adviser about its terms and effect (including, in particular, its effect on the complainant's ability to pursue the complaint before an employment tribunal),

(d) on the date of the giving of the advice, there is in force a contract of insurance, or an indemnity provided for members of a profession or professional body, covering the risk of a claim by the complainant in respect of loss arising from the advice,

(e) the contract identifies the adviser, and

(f) the contract states that the conditions in paragraphs (c) and (d) are met.

(4) Each of the following is an independent adviser—

(a) a qualified lawyer;

(b) an officer, official, employee or member of an independent trade union certified in writing by the trade union as competent to give advice and as authorised to do so on its behalf;

(c) a worker at an advice centre (whether as an employee or a volunteer) certified in writing by the centre as competent to give advice and as authorised to do so on its behalf;

(d) a person of such description as may be specified by order.

(5) Despite subsection (4), none of the following is an independent adviser **[** to the complainant **]** [2] in relation to a qualifying **[** settlement agreement **]** [1] —

(a) a person **[** (other than the complainant) **]** [3] who is a party to the contract or the complaint;

(b) a person who is connected to a person within paragraph (a);

(c) a person who is employed by a person within paragraph (a) or (b);

(d) a person who is acting for a person within paragraph (a) or (b) in relation to the contract or the complaint;

(e) a person within subsection (4)(b) or (c), if the trade union or advice centre is a person within paragraph (a) or (b);

(f) a person within subsection (4)(c) to whom the complainant makes a payment for the advice.

(6) A "qualified lawyer", for the purposes of subsection (4)(a), is—

(a) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation;
(b) in relation to Scotland, an advocate (whether in practice as such or employed to give legal advice) or a solicitor who holds a practising certificate.

(7) "Independent trade union" has the meaning given in section 5 of the Trade Union and Labour Relations (Consolidation) Act 1992.

(8) Two persons are connected for the purposes of subsection (5) if—
(a) one is a company of which the other (directly or indirectly) has control, or
(b) both are companies of which a third person (directly or indirectly) has control.

(9) Two persons are also connected for the purposes of subsection (5) in so far as a connection between them gives rise to a conflict of interest in relation to the contract or the complaint.

Notes

[2] Words inserted by Equality Act 2010 (Amendment) Order 2012/334 art.2(2) (April 6, 2012)

[3] Words inserted by Equality Act 2010 (Amendment) Order 2012/334 art.2(3) (April 6, 2012)

Commencement

Pt 10 s. 147(1)-(3)(f), (5)-(9): October 1, 2010 (SI 2010/2317 art. 2(10)(b))

Pt 10 s. 147(4)-(4)(d): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(10)(b))

Extent

Pt 10 s. 147(1)-(9): England, Wales, Scotland

Law In Force

148 Interpretation

(1) This section applies for the purposes of this Part.

(2) A reference to treatment of a description prohibited by this Act does not include treatment in so far as it is treatment that would contravene—
(a) Part 1 (public sector duty regarding socio-economic inequalities), or
(b) Chapter 1 of Part 11 (public sector equality duty).

(3) "Group insurance arrangement" means an arrangement between an employer and another person for the provision by that other person of facilities by way of insurance to the employer's employees (or a class of those employees).

(4) "Collective agreement" has the meaning given in section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992.

(5) A rule of an undertaking is a rule within subsection (6) or (7).

(6) A rule within this subsection is a rule made by a trade organisation or a qualifications body for application to—
(a) its members or prospective members,

(b) persons on whom it has conferred a relevant qualification, or
(c) persons seeking conferment by it of a relevant qualification.

(7) A rule within this subsection is a rule made by an employer for application to—
(a) employees,
(b) persons who apply for employment, or
(c) persons the employer considers for employment.

(8) "Trade organisation", "qualifications body" and "relevant qualification" each have the meaning given in Part 5 (work).

Commencement

Pt 10 s. 148(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(10)(c))

Extent

Pt 10 s. 148(1)-(8): England, Wales, Scotland

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 1

PUBLIC SECTOR EQUALITY DUTY

Law In Force

149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

age;
disability;
gender reassignment;
pregnancy and maternity;
race;
religion or belief;
sex;
sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to—

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) Schedule 18 (exceptions) has effect.

Commencement

Pt 11 c. 1 s. 149(1)-(9): April 5, 2011 (SI 2011/1066 art. 2(a))

Extent

Pt 11 c. 1 s. 149(1)-(9): England, Wales, Scotland

Law In Force

150 Public authorities and public functions

(1) A public authority is a person who is specified in Schedule 19.

(2) In that Schedule—

Part 1 specifies public authorities generally;

Part 2 specifies relevant Welsh authorities;
Part 3 specifies relevant Scottish authorities.

(3) A public authority specified in Schedule 19 is subject to the duty imposed by section 149(1) in relation to the exercise of all of its functions unless subsection (4) applies.

(4) A public authority specified in that Schedule in respect of certain specified functions is subject to that duty only in respect of the exercise of those functions.

(5) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

Commencement

Pt 11 c. 1 s. 150(1)-(5): January 18, 2011 for the purpose specified in SI 2011/96 art.2(a); April 5, 2011 otherwise (SI 2011/96 art. 2(a); SI 2011/1066 art. 2(b))

Extent

Pt 11 c. 1 s. 150-(5): England, Wales, Scotland

Law In Force

151 Power to specify public authorities

(1) A Minister of the Crown may by order amend Part 1, 2 or 3 of Schedule 19.

(2) The Welsh Ministers may by order amend Part 2 of Schedule 19.

(3) The Scottish Ministers may by order amend Part 3 of Schedule 19.

(4) The power under subsection (1), (2) or (3) may not be exercised so as to—
(a) add an entry to Part 1 relating to a relevant Welsh or Scottish authority or a cross-border Welsh or Scottish authority;
(b) add an entry to Part 2 relating to a person who is not a relevant Welsh authority;
(c) add an entry to Part 3 relating to a person who is not a relevant Scottish authority.

(5) A Minister of the Crown may by order amend Schedule 19 so as to make provision relating to a cross-border Welsh or Scottish authority.

(6) On the first exercise of the power under subsection (5) to add an entry relating to a cross-border Welsh or Scottish authority to Schedule 19, a Minister of the Crown must—
(a) add a Part 4 to the Schedule for cross-border authorities, and
(b) add the cross-border Welsh or Scottish authority to that Part.

(7) Any subsequent exercise of the power under subsection (5) to add an entry relating to a cross-border Welsh or Scottish authority to Schedule 19 must add that entry to Part 4 of the Schedule.

(8) An order may not be made under this section so as to extend the application of section 149 unless the person making it considers that the extension relates to a person by whom a public function is exercisable.

(9) An order may not be made under this section so as to extend the application of section 149 to—
(a) the exercise of a function referred to in paragraph 3 of Schedule 18 (judicial functions, etc);

(b) a person listed in paragraph 4(2)(a) to (e) of that Schedule (Parliament, devolved legislatures and General Synod);
(c) the exercise of a function listed in paragraph 4(3) of that Schedule (proceedings in Parliament or devolved legislatures).

Commencement

Pt 11 c. 1 s. 151(1)-(9)(c): January 18, 2011 (SI 2011/96 art. 2(b))

Extent

Pt 11 c. 1 s. 151(1)-(9)(c): England, Wales, Scotland

Law In Force

152 Power to specify public authorities: consultation […][1]

(1) Before making an order under a provision specified in the first column of the Table, a Minister of the Crown must consult the person or persons specified in the second column.

Provision	*Consultees*
Section 151(1)	The Commission
Section 151(1), so far as relating to a relevant Welsh authority	The Welsh Ministers
Section 151(1), so far as relating to a relevant Scottish authority	The Scottish Ministers
Section 151(5)	The Commission
Section 151(5), so far as relating to a cross-border Welsh authority	The Welsh Ministers
Section 151(5), so far as relating to a cross-border Scottish authority	The Scottish Ministers

(2) Before making an order under section 151(2) , the Welsh Ministers must **[** consult the Commission, and after making such an order they must inform a Minister of the Crown. **]** [2]
(a)-(b) **[…]**[2]

(3) Before making an order under section 151(3) , the Scottish Ministers must **[** consult the Commission, and after making such an order they must in form a Minister of the Crown. **]** [3]
(a)-(b) **[…]**[3]

Notes

1 Words repealed by Wales Act 2017 c. 4 Pt 2 s.44(2)(b) (April 1, 2018: repeal has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

2 Words substituted by Wales Act 2017 c. 4 Pt 2 s.44(2)(a) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

3 Words substituted by Scotland Act 2016 c. 11 Pt 4 s.37(7) (May 23, 2016: substitution has effect subject to transitional provisions specified in 2016 c.11 s.70)

Commencement

Pt 11 c. 1 s. 152(1)-(3)(b): January 18, 2011 (SI 2011/96 art. 2(b))

Extent

Pt 11 c. 1 s. 152(1)-(3)(b): England, Wales, Scotland

Law In Force

153 Power to impose specific duties

(1) A Minister of the Crown may by regulations impose duties on a public authority specified in Part 1 of Schedule 19 for the purpose of enabling the better performance by the authority of the duty imposed by section 149(1).

(2) The Welsh Ministers may by regulations impose duties on a public authority specified in Part 2 of Schedule 19 for that purpose.

(3) The Scottish Ministers may by regulations impose duties on a public authority specified in Part 3 of Schedule 19 for that purpose.

(4) Before making regulations under this section, the person making them must consult the Commission.

Commencement

Pt 11 c. 1 s. 153(1)-(4): January 18, 2011 (SI 2011/96 art. 2(b))

Extent

Pt 11 c. 1 s. 153(1)-(4): England, Wales, Scotland

Law In Force

154 Power to impose specific duties: cross-border authorities

(1) If a Minister of the Crown exercises the power in section 151(5) to add an entry for a public authority to Part 4 of Schedule 19, the Minister must include after the entry a letter specified in the first column of the Table in subsection (3).

(2) Where a letter specified in the first column of the Table in subsection (3) is included after an entry for a public authority in Part 4 of Schedule 19, the person specified in the second column of the Table—

(a) may by regulations impose duties on the authority for the purpose of enabling the better performance by the authority of the duty imposed by section 149(1), subject to such limitations as are specified in that column;

(b) must in making the regulations comply with the procedural requirement specified in that column.

(3) This is the Table—

Letter	*Person by whom regulations may be made and procedural requirements*
A	Regulations may be made by a Minister of the Crown in relation to the authority's functions that are not devolved Welsh functions.

Letter	*Person by whom regulations may be made and procedural requirements*
	The Minister of the Crown must consult the Welsh Ministers before making the regulations.
	Regulations may be made by the Welsh Ministers in relation to the authority's devolved Welsh functions.
	[The Welsh Ministers must inform a Minister of the Crown after **]** [1] making the regulations.
B	Regulations may be made by a Minister of the Crown in relation to the authority's functions that are not devolved Scottish functions.
	The Minister of the Crown must consult the Scottish Ministers before making the regulations.
	Regulations may be made by the Scottish Ministers in relation to the authority's devolved Scottish functions.
	[The Scottish Ministers must in form a Minister of the Crown after **]** [2] making the regulations.
C	Regulations may be made by a Minister of the Crown in relation to the authority's functions that are neither devolved Welsh functions nor devolved Scottish functions.
	The Minister of the Crown must consult the Welsh Ministers and the Scottish Ministers before making the regulations.
	Regulations may be made by the Welsh Ministers in relation to the authority's devolved Welsh functions.
	[The Welsh Ministers must in form a Minister of the Crown after **]** [1] making the regulations.
	Regulations may be made by the Scottish Ministers in relation to the authority's devolved Scottish functions.
	[The Scottish Ministers must in form a Minister of the Crown after **]** [2] making the regulations.
D	The regulations may be made by a Minister of the Crown.
	The Minister of the Crown must consult the Welsh Ministers before making the regulations.

(4) Before making regulations under subsection (2), the person making them must consult the Commission.

Notes

[1] Words substituted by Wales Act 2017 c. 4 Pt 2 s.44(3) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

[2] Words substituted by Scotland Act 2016 c. 11 Pt 4 s.37(8) (May 23, 2016: substitution has effect subject to transitional provisions specified in 2016 c.11 s.70)

Commencement

Pt 11 c. 1 s. 154(1)-(4): January 18, 2011 (SI 2011/96 art. 2(b))

Extent

Pt 11 c. 1 s. 154(1)-(4): England, Wales, Scotland

Law In Force

155 Power to impose specific duties: supplementary

(1) Regulations under section 153 or 154 may require a public authority to consider such matters as may be specified from time to time by—

(a) a Minister of the Crown, where the regulations are made by a Minister of the Crown;

(b) the Welsh Ministers, where the regulations are made by the Welsh Ministers;
(c) the Scottish Ministers, where the regulations are made by the Scottish Ministers.

(2) Regulations under section 153 or 154 may impose duties on a public authority that is a contracting authority within the meaning of the **[** Public Contracts Regulations **]** [1] in connection with its public procurement functions.

(3) In subsection (2)—

[

"Public Contracts Regulations" means the Public Contracts Regulations 2015 (S.I. 2015/102) or, in Scotland, the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), as amended from time to time;

"public procurement functions" means functions the exercise of which is regulated by Part 2 of the Public Contracts Regulations 2015 (S.I. 2015/102) or by the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), as amended from time to time.

] [2]

(4) Subsections (1) and (2) do not affect the generality of section 153 or 154(2)(a).

(5) A duty imposed on a public authority under section 153 or 154 may be modified or removed by regulations made by—

(a) a Minister of the Crown, where the original duty was imposed by regulations made by a Minister of the Crown;
(b) the Welsh Ministers, where the original duty was imposed by regulations made by the Welsh Ministers;
(c) the Scottish Ministers, where the original duty was imposed by regulations made by the Scottish Ministers.

Notes

[1] Words substituted by Public Procurement (Amendment etc.) (EU Exit) Regulations 2020/1319 Pt 2 reg.4(2)(a) (December 31, 2020: substitution has effect subject to saving specified in SI 2020/1319 Sch.1 paras 3, 4 and 10-15)

[2] Definitions substituted by Public Procurement (Amendment etc.) (EU Exit) Regulations 2020/1319 Pt 2 reg.4(2)(b) (December 31, 2020: substitution has effect subject to saving specified in SI 2020/1319 Sch.1 paras 3, 4 and 10-15)

Commencement

Pt 11 c. 1 s. 155(1)-(5)(c): January 18, 2011 (SI 2011/96 art. 2(b))

Extent

Pt 11 c. 1 s. 155(1)-(5)(c): England, Wales, Scotland

Law In Force

156 Enforcement

A failure in respect of a performance of a duty imposed by or under this Chapter does not confer a cause of action at private law.

Commencement

Pt 11 c. 1 s. 156: April 5, 2011 (SI 2011/1066 art. 2(c))

Extent

Pt 11 c. 1 s. 156: England, Wales, Scotland

Law In Force

157 Interpretation

(1) This section applies for the purposes of this Chapter.

[(2) A relevant Welsh authority is a devolved Welsh authority (within the meaning given by section 157A of the Government of Wales Act 2006) other than the Assembly Commission. **]** [1]

(3) A cross-border Welsh authority is a person other than a relevant Welsh authority (or the Assembly Commission) who has any function that—

(a) is exercisable in or as regards Wales, and

(b) is a devolved Welsh function.

(4) The Assembly Commission has the same meaning as in the Government of Wales Act 2006.

[(5) A function is a devolved Welsh function if—

(a) it relates to a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or

(b) provision conferring the function would be within the legislative competence of the National Assembly for Wales.

] [2]

(6) A relevant Scottish authority is a public body, public office or holder of a public office—

(a) which is not a cross-border Scottish authority or the Scottish Parliamentary Corporate Body,

(b) whose functions are exercisable only in or as regards Scotland, and

(c) at least some of whose functions do not relate to reserved matters.

(7) A cross-border Scottish authority is a cross-border public authority within the meaning given by section 88(5) of the Scotland Act 1998.

(8) A function is a devolved Scottish function if it—

(a) is exercisable in or as regards Scotland, and

(b) does not relate to reserved matters.

(9) Reserved matters has the same meaning as in the Scotland Act 1998.

Notes

[1] Substituted by Wales Act 2017 c. 4 Sch.6(3) para.84(2) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(r) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

[2] Substituted by Wales Act 2017 c. 4 Sch.6(3) para.84(3) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(r) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 11 c. 1 s. 157(1)-(9): January 18, 2011 (SI 2011/96 art. 2(c))

Extent

Pt 11 c. 1 s. 157(1)-(9): England, Wales, Scotland

CHAPTER 2

POSITIVE ACTION

Law In Force

158 Positive action: general

(1) This section applies if a person (P) reasonably thinks that—

(a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic,

(b) persons who share a protected characteristic have needs that are different from the needs of persons who do not share it, or

(c) participation in an activity by persons who share a protected characteristic is disproportionately low.

(2) This Act does not prohibit P from taking any action which is a proportionate means of achieving the aim of—

(a) enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage,

(b) meeting those needs, or

(c) enabling or encouraging persons who share the protected characteristic to participate in that activity.

(3) Regulations may specify action, or descriptions of action, to which subsection (2) does not apply.

(4) This section does not apply to—

(a) action within section 159(3), or

(b) anything that is permitted by virtue of section 104.

(5) If section 104(7) is repealed by virtue of section 105, this section will not apply to anything that would have been so permitted but for the repeal.

(6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

Commencement

Pt 11 c. 2 s. 158(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(11)(a))

Extent

Pt 11 c. 2 s. 158(1)-(6): England, Wales, Scotland

Law In Force

159 Positive action: recruitment and promotion

(1) This section applies if a person (P) reasonably thinks that—

(a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic, or

(b) participation in an activity by persons who share a protected characteristic is disproportionately low.

(2) Part 5 (work) does not prohibit P from taking action within subsection (3) with the aim of enabling or encouraging persons who share the protected characteristic to—

(a) overcome or minimise that disadvantage, or

(b) participate in that activity.

(3) That action is treating a person (A) more favourably in connection with recruitment or promotion than another person (B) because A has the protected characteristic but B does not.

(4) But subsection (2) applies only if—

(a) A is as qualified as B to be recruited or promoted,

(b) P does not have a policy of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it, and

(c) taking the action in question is a proportionate means of achieving the aim referred to in subsection (2).

(5) "Recruitment" means a process for deciding whether to—

(a) offer employment to a person,

(b) make contract work available to a contract worker,

(c) offer a person a position as a partner in a firm or proposed firm,

(d) offer a person a position as a member of an LLP or proposed LLP,

(e) offer a person a pupillage or tenancy in barristers' chambers,

(f) take a person as an advocate's devil or offer a person membership of an advocate's stable,

(g) offer a person an appointment to a personal office,

(h) offer a person an appointment to a public office, recommend a person for such an appointment or approve a person's appointment to a public office, or

(i) offer a person a service for finding employment.

(6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

Commencement

Pt 11 c. 2 s. 159(1)-(2)(b), (4)-(6): April 6, 2011 (SI 2011/96 art. 3)

Pt 11 c. 2 s. 159(3): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(11)(b); April 6, 2011 otherwise (SI 2010/2317 art. 2(11)(b); SI 2011/96 art. 3)

Extent

Pt 11 c. 2 s. 159(1)-(6): England, Wales, Scotland

PART 12

DISABLED PERSONS: TRANSPORT

CHAPTER 1

TAXIS, ETC.

Not Yet In Force

160 Taxi accessibility regulations

(1) The Secretary of State may make regulations (in this Chapter referred to as "taxi accessibility regulations") for securing that it is possible for disabled persons—

(a) to get into and out of taxis in safety;
(b) to do so while in wheelchairs;
(c) to travel in taxis in safety and reasonable comfort;
(d) to do so while in wheelchairs.

(2) The regulations may, in particular, require a regulated taxi to conform with provision as to—

(a) the size of a door opening for the use of passengers;
(b) the floor area of the passenger compartment;
(c) the amount of headroom in the passenger compartment;
(d) the fitting of restraining devices designed to ensure the stability of a wheelchair while the taxi is moving.

(3) The regulations may also—

(a) require the driver of a regulated taxi which is plying for hire, or which has been hired, to comply with provisions as to the carrying of ramps or other devices designed to facilitate the loading and unloading of wheelchairs;
(b) require the driver of a regulated taxi in which a disabled person is being carried while in a wheelchair to comply with provisions as to the position in which the wheelchair is to be secured.

(4) The driver of a regulated taxi which is plying for hire or has been hired commits an offence—

(a) by failing to comply with a requirement of the regulations, or

(b) if the taxi fails to conform with any provision of the regulations with which it is required to conform.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) In this section—

"passenger compartment" has such meaning as is specified in taxi accessibility regulations;

"regulated taxi" means a taxi to which taxi accessibility regulations are expressed to apply.

Commencement

Pt 12 c. 1 s. 160(1)-(6) definition of "regulated taxi": Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 12 c. 1 s. 160(1)-(6) definition of "regulated taxi": England, Wales, Scotland

Partially In Force

161 Control of numbers of licensed taxis: exception

(1) This section applies if—

(a) an application for a licence in respect of a vehicle is made under section 37 of the Town Police Clauses Act 1847,

(b) it is possible for a disabled person—

(i) to get into and out of the vehicle in safety,

(ii) to travel in the vehicle in safety and reasonable comfort, and

(iii) to do the things mentioned in sub-paragraphs (i) and (ii) while in a wheelchair of a size prescribed by the Secretary of State, and

(c) the proportion of taxis licensed in respect of the area to which the licence would (if granted) apply that conform to the requirement in paragraph (b) is less than the proportion that is prescribed by the Secretary of State.

(2) Section 16 of the Transport Act 1985 (which modifies the provisions of the Town Police Clauses Act 1847 about hackney carriages to allow a licence to ply for hire to be refused in order to limit the number of licensed carriages) does not apply in relation to the vehicle; and those provisions of the Town Police Clauses Act 1847 are to have effect subject to this section.

(3) In section 16 of the Transport Act 1985, after "shall" insert "(subject to section 161 of the Equality Act 2010)".

Commencement

Pt 12 c. 1 s. 161(1)-(3): October 1, 2010 for the power to make regulations; not yet in force otherwise (SI 2010/2317 art. 2(12)(a))

Extent

Pt 12 c. 1 s. 161(1)-(3): England, Wales, Scotland

Not Yet In Force With Amendments Pending

162 Designated transport facilities

(1) The appropriate authority may by regulations provide for the application of any taxi provision (with or without modification) to—

(a) vehicles used for the provision of services under a franchise agreement, or

(b) drivers of such vehicles.

(2) A franchise agreement is a contract entered into by the operator of a designated transport facility for the provision, by the other party to the contract, of hire car services—

(a) for members of the public using any part of the facility, and

(b) which involve vehicles entering any part of the facility.

(3) In this section—

"appropriate authority" means—

(a) in relation to transport facilities in England and Wales, the Secretary of State;

(b) in relation to transport facilities in Scotland, the Scottish Ministers;

"designated" means designated by order made by the appropriate authority;

"hire car" has such meaning as is prescribed by the appropriate authority;

"operator", in relation to a transport facility, means a person who is concerned with the management or operation of the facility;

"taxi provision" means a provision of—

(a) this Chapter, or

(b) regulations made in pursuance of section 20(2A) of the Civic Government (Scotland) Act 1982,

which applies in relation to taxis or drivers of taxis;

"transport facility" means premises which form part of a port, airport, railway station or bus station.

(4) For the purposes of section 2(2) of the European Communities Act 1972 (implementation of EU obligations), the Secretary of State may exercise a power conferred by this section on the Scottish Ministers.

Amendments Pending

Pt 12 c. 1 s. 162(4): repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg. 5(3) (date to be appointed: repeal came into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1 but could not take effect until the commencement of 2010 c.15 s.162(4))

Commencement

Pt 12 c. 1 s. 162(1)-(4): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 12 c. 1 s. 162(1)-(4): England, Wales, Scotland

Not Yet In Force

163 Taxi licence conditional on compliance with taxi accessibility regulations

(1) A licence for a taxi to ply for hire must not be granted unless the vehicle conforms with the provisions of taxi accessibility regulations with which a vehicle is required to conform if it is licensed.

(2) Subsection (1) does not apply if a licence is in force in relation to the vehicle at any time during the period of 28 days immediately before the day on which the licence is granted.

(3) The Secretary of State may by order provide for subsection (2) to cease to have effect on a specified date.

(4) The power under subsection (3) may be exercised differently for different areas or localities.

Commencement

Pt 12 c. 1 s. 163(1)-(4): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 12 c. 1 s. 163(1)-(4): England, Wales, Scotland

Not Yet In Force

164 Exemption from taxi accessibility regulations

(1) The Secretary of State may by regulations provide for a relevant licensing authority to apply for an order (an "exemption order") exempting the authority from the requirements of section 163.

(2) Regulations under subsection (1) may, in particular, make provision requiring an authority proposing to apply for an exemption order—

(a) to carry out such consultation as is specified;
(b) to publish its proposals in the specified manner;
(c) before applying for the order, to consider representations made about the proposal;
(d) to make the application in the specified form.

In this subsection "specified" means specified in the regulations.

(3) An authority may apply for an exemption order only if it is satisfied—

(a) that, having regard to the circumstances in its area, it is inappropriate for section 163 to apply, and
(b) that the application of that section would result in an unacceptable reduction in the number of taxis in its area.

(4) After consulting the Disabled Persons Transport Advisory Committee and such other persons as the Secretary of State thinks appropriate, the Secretary of State may—

(a) make an exemption order in the terms of the application for the order;
(b) make an exemption order in such other terms as the Secretary of State thinks appropriate;
(c) refuse to make an exemption order.

(5) The Secretary of State may by regulations make provision requiring a taxi plying for hire in an area in respect of which an exemption order is in force to conform with provisions of the regulations as to the fitting and use of swivel seats.

(6) Regulations under subsection (5) may make provision corresponding to section 163.

(7) In this section—

"relevant licensing authority" means an authority responsible for licensing taxis in any area of England and Wales other than the area to which the Metropolitan Public Carriage Act 1869 applies;

"swivel seats" has such meaning as is specified in regulations under subsection (5).

Commencement

Pt 12 c. 1 s. 164(1)-(7) definition of "swivel seats": Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Pt 12 c. 1 s. 164(1)-(7) definition of "swivel seats": England, Wales, Scotland

Law In Force

165 Passengers in wheelchairs

(1) This section imposes duties on the driver of a designated taxi which has been hired—

(a) by or for a disabled person who is in a wheelchair, or

(b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

(2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph (a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.

(3) For the purposes of this section—

(a) a taxi or private hire vehicle is "designated" if it appears on a list maintained under section 167;

(b) "the passenger" means the disabled person concerned.

(4) The duties are—

(a) to carry the passenger while in the wheelchair;

(b) not to make any additional charge for doing so;

(c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;

(d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;

(e) to give the passenger such mobility assistance as is reasonably required.

(5) Mobility assistance is assistance—

(a) to enable the passenger to get into or out of the vehicle;

(b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;

(c) to load the passenger's luggage into or out of the vehicle;

(d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

(6) This section does not require the driver—

(a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;
(b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.

(7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) It is a defence for a person charged with the offence to show that at the time of the alleged offence—
(a) the vehicle conformed to the accessibility requirements which applied to it, but
(b) it would not have been possible for the wheelchair to be carried safely in the vehicle.

(10) In this section and sections 166 and 167"private hire vehicle" means—
(a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
(b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
(c) a vehicle licensed under an equivalent provision of a local enactment;
(d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

Commencement

Pt 12 c. 1 s. 165(1)-(10)(d): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(12)(b); April 6, 2017 otherwise (SI 2010/2317 art. 2(12)(b); SI 2017/107 art. 2(a))

Extent

Pt 12 c. 1 s. 165-(10)(d): England, Wales, Scotland

Law In Force

166 Passengers in wheelchairs: exemption certificates

(1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an "exemption certificate") if satisfied that it is appropriate to do so—
(a) on medical grounds, or
(b) on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.

(2) An exemption certificate is valid for such period as is specified in the certificate.

(3) The driver of a designated taxi is exempt from the duties imposed by section 165 if—
(a) an exemption certificate issued to the driver is in force, and
(b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.

(4) The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—
(a) an exemption certificate issued to the driver is in force, and

(b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.

(5) For the purposes of this section, a taxi or private hire vehicle is "designated" if it appears on a list maintained under section 167.

(6) In this section and section 167"licensing authority", in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

Commencement

Pt 12 c. 1 s. 166(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(12)(c))

Extent

Pt 12 c. 1 s. 166(1)-(6): England, Wales, Scotland

Law In Force

167 Lists of wheelchair-accessible vehicles

(1) For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).

(2) A vehicle falls within this subsection if—

(a) it is either a taxi or a private hire vehicle, and

(b) it conforms to such accessibility requirements as the licensing authority thinks fit.

(3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.

(4) In subsection (3) "special licence" has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).

(5) "Accessibility requirements" are requirements for securing that it is possible for disabled persons in wheelchairs—

(a) to get into and out of vehicles in safety, and

(b) to travel in vehicles in safety and reasonable comfort,

either staying in their wheelchairs or not (depending on which they prefer).

(6) The Secretary of State may issue guidance to licensing authorities as to—

(a) the accessibility requirements which they should apply for the purposes of this section;

(b) any other aspect of their functions under or by virtue of this section.

(7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

Commencement

Pt 12 c. 1 s. 167(1)-(5)(b), (7): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(12)(d); April 6, 2017 otherwise (SI 2010/2317 art. 2(12)(d); SI 2017/107 art. 2(b))

Pt 12 c. 1 s. 167(6)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(12)(e))

Extent

Pt 12 c. 1 s. 167(1)-(7): England, Wales, Scotland

Law In Force

168 Assistance dogs in taxis

(1) This section imposes duties on the driver of a taxi which has been hired—

(a) by or for a disabled person who is accompanied by an assistance dog, or

(b) by another person who wishes to be accompanied by a disabled person with an assistance dog.

(2) The driver must—

(a) carry the disabled person's dog and allow it to remain with that person;

(b) not make any additional charge for doing so.

(3) The driver of a taxi commits an offence by failing to comply with a duty imposed by this section.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement

Pt 12 c. 1 s. 168(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 168(1)-(4): England, Wales, Scotland

Law In Force

169 Assistance dogs in taxis: exemption certificates

(1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 168 (an “exemption certificate”) if satisfied that it is appropriate to do so on medical grounds.

(2) In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the taxi which the person drives or those of any kind of taxi in relation to which the person requires the certificate.

(3) An exemption certificate is valid—

(a) in respect of a specified taxi or a specified kind of taxi;

(b) for such period as is specified in the certificate.

(4) The driver of a taxi is exempt from the duties imposed by section 168 if—

(a) an exemption certificate issued to the driver is in force with respect to the taxi, and

(b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.

The power to make regulations under paragraph (b) is exercisable by the Secretary of State.

(5) In this section "licensing authority" means—

(a) in relation to the area to which the Metropolitan Public Carriage Act 1869 applies, Transport for London;

(b) in relation to any other area in England and Wales, the authority responsible for licensing taxis in that area.

Commencement

Pt 12 c. 1 s. 169(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 169(1)-(5)(b): England, Wales, Scotland

Law In Force

170 Assistance dogs in private hire vehicles

(1) The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle—

(a) if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and

(b) the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog.

(2) The operator commits an offence by making an additional charge for carrying an assistance dog which is accompanying a disabled person.

(3) The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator—

(a) if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and

(b) the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) In this section—

"driver" means a person who holds a licence under—

(a) section 13 of the Private Hire Vehicles (London) Act 1998 ("the 1998 Act"),

(b) section 51 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act"), or

(c) an equivalent provision of a local enactment;

"licensing authority", in relation to any area in England and Wales, means the authority responsible for licensing private hire vehicles in that area;

"operator" means a person who holds a licence under—

(a) section 3 of the 1998 Act,

(b) section 55 of the 1976 Act, or

(c) an equivalent provision of a local enactment;

"private hire vehicle" means a vehicle licensed under—

(a) section 6 of the 1998 Act,

(b) section 48 of the 1976 Act, or

(c) an equivalent provision of a local enactment.

Commencement

Pt 12 c. 1 s. 170(1)-(5) definition of "private hire vehicle" (c): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 170(1)-(5) definition of "private hire vehicle" (c): England, Wales, Scotland

Law In Force

171 Assistance dogs in private hire vehicles: exemption certificates

(1) A licensing authority must issue a driver with a certificate exempting the driver from the offence under section 170(3) (an "exemption certificate") if satisfied that it is appropriate to do so on medical grounds.

(2) In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the private hire vehicle which the person drives or those of any kind of private hire vehicle in relation to which the person requires the certificate.

(3) An exemption certificate is valid—

(a) in respect of a specified private hire vehicle or a specified kind of private hire vehicle;

(b) for such period as is specified in the certificate.

(4) A driver does not commit an offence under section 170(3) if—

(a) an exemption certificate issued to the driver is in force with respect to the private hire vehicle, and

(b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.

The power to make regulations under paragraph (b) is exercisable by the Secretary of State.

(5) In this section "driver" , "licensing authority" and "private hire vehicle" have the same meaning as in section 170.

Commencement

Pt 12 c. 1 s. 171(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 171(1)-(5): England, Wales, Scotland

Law In Force

172 Appeals

(1) A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 may appeal to a magistrates' court before the end of the period of 28 days beginning with the date of the refusal.

(2) A person who is aggrieved by the refusal of a licensing authority in Scotland to issue an exemption certificate under section 166 may appeal to the sheriff before the end of the period of 28 days beginning with the date of the refusal.

(3) On an appeal under subsection (1) or (2), the magistrates' court or sheriff may direct the licensing authority to issue the exemption certificate to have effect for such period as is specified in the direction.

(4) A person who is aggrieved by the decision of a licensing authority to include a vehicle on a list maintained under section 167 may appeal to a magistrates' court or, in Scotland, the sheriff before the end of the period of 28 days beginning with the date of the inclusion.

Commencement

Pt 12 c. 1 s. 172(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 172(1)-(4): England, Wales, Scotland

Law In Force

173 Interpretation

(1) In this Chapter—

"accessibility requirements" has the meaning given in section 167(5);

"assistance dog" means—

(a) a dog which has been trained to guide a blind person;

(b) a dog which has been trained to assist a deaf person;

(c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;

(d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind;

"taxi" —

(a) means a vehicle which is licensed under section 37 of the Town Police Clauses Act 1847 or section 6 of the Metropolitan Public Carriage Act 1869, and

(b) in sections 162 and 165 to 167, also includes a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982,

but does not include a vehicle drawn by a horse or other animal;

"taxi accessibility regulations" has the meaning given by section 160(1).

(2) A power to make regulations under paragraph (c) or (d) of the definition of "assistance dog" in subsection (1) is exercisable by the Secretary of State.

Commencement

Pt 12 c. 1 s. 173(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 1 s. 173(1)-(2): England, Wales, Scotland

CHAPTER 2

PUBLIC SERVICE VEHICLES

Law In Force

174 PSV accessibility regulations

(1) The Secretary of State may make regulations (in this Chapter referred to as "PSV accessibility regulations") for securing that it is possible for disabled persons—

(a) to get on to and off regulated public service vehicles in safety and without unreasonable difficulty (and, in the case of disabled persons in wheelchairs, to do so while remaining in their wheelchairs), and

(b) to travel in such vehicles in safety and reasonable comfort.

(2) The regulations may, in particular, make provision as to the construction, use and maintenance of regulated public service vehicles, including provision as to—

(a) the fitting of equipment to vehicles;

(b) equipment to be carried by vehicles;

(c) the design of equipment to be fitted to, or carried by, vehicles;

(d) the fitting and use of restraining devices designed to ensure the stability of wheelchairs while vehicles are moving;

(e) the position in which wheelchairs are to be secured while vehicles are moving.

(3) In this section "public service vehicle" means a vehicle which is—

(a) adapted to carry more than 8 passengers, and

(b) a public service vehicle for the purposes of the Public Passenger Vehicles Act 1981;

and in this Chapter "regulated public service vehicle" means a public service vehicle to which PSV accessibility regulations are expressed to apply.

(4) The regulations may make different provision—

(a) as respects different classes or descriptions of vehicle;

(b) as respects the same class or description of vehicle in different circumstances.

(5) The Secretary of State must not make regulations under this section or section 176 or 177 without consulting—

(a) the Disabled Persons Transport Advisory Committee, and

(b) such other representative organisations as the Secretary of State thinks fit.

Commencement

Pt 12 c. 2 s. 174(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 174(1)-(5)(b): England, Wales, Scotland

Law In Force

175 Offence of contravening PSV accessibility regulations

(1) A person commits an offence by—

(a) contravening a provision of PSV accessibility regulations;

(b) using on a road a regulated public service vehicle which does not conform with a provision of the regulations with which it is required to conform;

(c) causing or permitting such a regulated public service vehicle to be used on a road.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) If an offence under this section committed by a body corporate is committed with the consent or connivance of, or is attributable to neglect on the part of, a responsible person, the responsible person as well as the body corporate is guilty of the offence.

(4) In subsection (3) a responsible person, in relation to a body corporate, is—

(a) a director, manager, secretary or similar officer;

(b) a person purporting to act in the capacity of a person mentioned in paragraph (a);

(c) in the case of a body corporate whose affairs are managed by its members, a member.

(5) If, in Scotland, an offence committed by a partnership or an unincorporated association is committed with the consent or connivance of, or is attributable to neglect on the part of, a partner or person concerned in the management of the association, the partner or person as well as the partnership or association is guilty of the offence.

Commencement

Pt 12 c. 2 s. 175(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 175(1)-(5): England, Wales, Scotland

Law In Force

176 Accessibility certificates

(1) A regulated public service vehicle must not be used on a road unless—

(a) a vehicle examiner has issued a certificate (an "accessibility certificate") that such provisions of PSV accessibility regulations as are prescribed are satisfied in respect of the vehicle, or

(b) an approval certificate has been issued under section 177 in respect of the vehicle.

(2) Regulations may make provision—

(a) with respect to applications for, and the issue of, accessibility certificates;

(b) providing for the examination of vehicles in respect of which applications have been made;

(c) with respect to the issue of copies of accessibility certificates which have been lost or destroyed.

(3) The operator of a regulated public service vehicle commits an offence if the vehicle is used in contravention of this section.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) A power to make regulations under this section is exercisable by the Secretary of State.

(6) In this section "operator" has the same meaning as in the Public Passenger Vehicles Act 1981.

Commencement

Pt 12 c. 2 s. 176(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 176(1)-(6): England, Wales, Scotland

Law In Force

177 Approval certificates

(1) The Secretary of State may approve a vehicle for the purposes of this section if satisfied that such provisions of PSV accessibility regulations as are prescribed for the purposes of section 176 are satisfied in respect of the vehicle.

(2) A vehicle which is so approved is referred to in this section as a "type vehicle".

(3) Subsection (4) applies if a declaration in the prescribed form is made by an authorised person that a particular vehicle conforms in design, construction and equipment with a type vehicle.

(4) A vehicle examiner may issue a certificate in the prescribed form (an "approval certificate") that it conforms to the type vehicle.

(5) Regulations may make provision—

(a) with respect to applications for, and grants of, approval under subsection (1);

(b) with respect to applications for, and the issue of, approval certificates;

(c) providing for the examination of vehicles in respect of which applications have been made;

(d) with respect to the issue of copies of approval certificates in place of certificates which have been lost or destroyed.

(6) The Secretary of State may at any time withdraw approval of a type vehicle.

(7) If an approval is withdrawn—

(a) no further approval certificates are to be issued by reference to the type vehicle; but

(b) an approval certificate issued by reference to the type vehicle before the withdrawal continues to have effect for the purposes of section 176.

(8) A power to make regulations under this section is exercisable by the Secretary of State.

(9) In subsection (3) "authorised person" means a person authorised by the Secretary of State for the purposes of that subsection.

Commencement

Pt 12 c. 2 s. 177(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 177(1)-(9): England, Wales, Scotland

Law In Force

178 Special authorisations

(1) The Secretary of State may by order authorise the use on roads of—

(a) a regulated public service vehicle of a class or description specified by the order, or

(b) a regulated public service vehicle which is so specified.

(2) Nothing in sections 174 to 177 prevents the use of a vehicle in accordance with the order.

(3) The Secretary of State may by order make provision for securing that provisions of PSV accessibility regulations apply to regulated public service vehicles of a description specified by the order, subject to any modifications or exceptions specified by the order.

(4) An order under subsection (1) or (3) may make the authorisation or provision (as the case may be) subject to such restrictions and conditions as are specified by or under the order.

(5) Section 207(2) does not require an order under this section that applies only to a specified vehicle, or to vehicles of a specified person, to be made by statutory instrument; but such an order is as capable of being amended or revoked as an order made by statutory instrument.

Commencement

Pt 12 c. 2 s. 178(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 178(1)-(5): England, Wales, Scotland

Law In Force

179 Reviews and appeals

(1) Subsection (2) applies if the Secretary of State refuses an application for the approval of a vehicle under section 177(1) and, before the end of the prescribed period, the applicant—

(a) asks the Secretary of State to review the decision, and

(b) pays any fee fixed under section 180.

(2) The Secretary of State must—

(a) review the decision, and

(b) in doing so, consider any representations made in writing by the applicant before the end of the prescribed period.

(3) A person applying for an accessibility certificate or an approval certificate may appeal to the Secretary of State against the refusal of a vehicle examiner to issue the certificate.

(4) An appeal must be made within the prescribed time and in the prescribed manner.

(5) Regulations may make provision as to the procedure to be followed in connection with appeals.

(6) On the determination of an appeal, the Secretary of State may—

(a) confirm, vary or reverse the decision appealed against;

(b) give directions to the vehicle examiner for giving effect to the Secretary of State's decision.

(7) A power to make regulations under this section is exercisable by the Secretary of State.

Commencement

Pt 12 c. 2 s. 179(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 179(1)-(7): England, Wales, Scotland

Law In Force

180 Fees

(1) The Secretary of State may charge such fees, payable at such times, as are prescribed in respect of—

(a) applications for, and grants of, approval under section 177(1);

(b) applications for, and the issue of, accessibility certificates and approval certificates;

(c) copies of such certificates;

(d) reviews and appeals under section 179.

(2) Fees received by the Secretary of State must be paid into the Consolidated Fund.

(3) The power to make regulations under subsection (1) is exercisable by the Secretary of State.

(4) The regulations may make provision for the repayment of fees, in whole or in part, in such circumstances as are prescribed.

(5) Before making the regulations the Secretary of State must consult such representative organisations as the Secretary of State thinks fit.

Commencement

Pt 12 c. 2 s. 180(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 180(1)-(5): England, Wales, Scotland

Law In Force

181 Interpretation

In this Chapter—

"accessibility certificate" has the meaning given in section 176(1);
"approval certificate" has the meaning given in section 177(4);
"PSV accessibility regulations" has the meaning given in section 174(1);
"regulated public service vehicle" has the meaning given in section 174(3).

Commencement

Pt 12 c. 2 s. 181 definition of "accessibility certificate"- definition of "regulated public service vehicle": October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 2 s. 181 definition of "accessibility certificate"- definition of "regulated public service vehicle": England, Wales, Scotland

[CHAPTER 2A

] [1]

Notes

[1] Added by Bus Services Act 2017 c. 21 s.17(1) (June 26, 2018)

Law In Force

[181A Information for bus passengers

(1) The Secretary of State may, for the purpose of facilitating travel by disabled persons, make regulations requiring operators of local services to make available information about a local service to persons travelling on the service.

(2) The regulations may make provision about—

(a) the descriptions of information that are to be made available;
(b) how information is to be made available.

(3) The regulations may, in particular, require an operator of a local service to make available information of a prescribed description about—

(a) the name or other designation of the local service;
(b) the direction of travel;
(c) stopping places;
(d) diversions;
(e) connecting local services.

(4) The regulations may, in particular—

(a) specify when information of a prescribed description is to be made available;
(b) specify how information of a prescribed description is to be made available, including requiring information to be both announced and displayed;
(c) specify standards for the provision of information, including standards based on an announcement being audible or a display being visible to a person of a prescribed description in a prescribed location;
(d) specify forms of communication that are not to be regarded as satisfying a requirement to make information available.

(5) Regulations under this section may make different provision—

(a) as respects different descriptions of vehicle;
(b) as respects the same description of vehicle in different circumstances.

(6) Before making regulations under this section, the Secretary of State must consult—

(a) the Welsh Ministers;
(b) the Scottish Ministers.

] [1]

Notes

[1] Added by Bus Services Act 2017 c. 21 s.17(1) (June 26, 2018)

Extent

Pt 12 c. 2A s. 181A(1)-(6)(b): England, Wales, Scotland

Law In Force

[181B Exemptions etc

(1) The Secretary of State may by regulations make provision for securing that the provisions of regulations under section 181A do not apply or apply subject to such modifications or exceptions as the regulations may specify to—

(a) public service vehicles of a prescribed description;
(b) operators of a prescribed description;
(c) local services of a prescribed description.

(2) Regulations under subsection (1)(b) may, in particular, make provision by reference to an operator's size.

(3) Regulations under this section may also make provision for securing that the provisions of regulations under section 181A do not apply or apply subject to such modifications or exceptions as the regulations may specify to—

(a) a prescribed public service vehicle;
(b) public service vehicles of a prescribed operator;
(c) a prescribed local service.

(4) Regulations under subsection (1) or (3) may make the provision subject to such restrictions and conditions as are specified in the regulations.

(5) Regulations under subsection (1) or (3) may specify the period for which provisions of those regulations are to have effect.

(6) Regulations under subsection (1) may make different provision for different areas.

(7) Section 207(2) does not require regulations under this section that apply only to—

(a) a prescribed public service vehicle,
(b) public service vehicles of a prescribed operator, or
(c) a prescribed local service,

to be made by statutory instrument; but such regulations are as capable of being amended or revoked as regulations made by statutory instrument.

(8) Before making regulations under this section, the Secretary of State must consult—

(a) the Welsh Ministers;
(b) the Scottish Ministers.

] [1]

Notes

[1] Added by Bus Services Act 2017 c. 21 s.17(1) (June 26, 2018)

Extent

Pt 12 c. 2A s. 181B(1)-(8)(b): England, Wales, Scotland

Law In Force

[181C Guidance

(1) The Secretary of State must issue guidance about the duties imposed on operators of local services by regulations under section 181A.

(2) The Secretary of State—

(a) must review the guidance issued under subsection (1), at intervals not exceeding five years, and
(b) may revise it.

(3) Before issuing the guidance or revising it in a way which would, in the opinion of the Secretary of State, result in a substantial change to it, the Secretary of State must consult—

(a) the Welsh Ministers,
(b) the Scottish Ministers,
(c) the Passengers' Council,

(d) such organisations representing disabled persons, including the Disabled Persons Transport Advisory Committee and the committee established under section 72 of the Transport (Scotland) Act 2001, as the Secretary of State thinks fit,

(e) such organisations representing operators of local services as the Secretary of State thinks fit, and

(f) such other persons as the Secretary of State thinks fit.

(4) The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate.
] [1]

Notes

[1] Added by Bus Services Act 2017 c. 21 s.17(1) (June 26, 2018)

Extent

Pt 12 c. 2A s. 181C(1)-(4): England, Wales, Scotland

Law In Force

[181D Interpretation

(1) In this Chapter—

"local service" has the same meaning as in the Transport Act 1985;

"public service vehicle" means a vehicle that is a public service vehicle for the purposes of the Public Passenger Vehicles Act 1981;

"stopping place" has the same meaning as in the Transport Act 1985.

(2) For the purposes of this Chapter, a local service ("service A") is a connecting local service in relation to another local service ("service B") if service A has a stopping place at, or in the vicinity of, a stopping place of service B.

(3) References in this Chapter to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the Transport Act 1985.
] [1]

Notes

[1] Added by Bus Services Act 2017 c. 21 s.17(1) (June 26, 2018)

Extent

Pt 12 c. 2A s. 181D(1)-(3): England, Wales, Scotland

CHAPTER 3

RAIL VEHICLES

Law In Force

182 Rail vehicle accessibility regulations

(1) The Secretary of State may make regulations (in this Chapter referred to as "rail vehicle accessibility regulations") for securing that it is possible for disabled persons—

(a) to get on to and off regulated rail vehicles in safety and without unreasonable difficulty;
(b) to do so while in wheelchairs;
(c) to travel in such vehicles in safety and reasonable comfort;
(d) to do so while in wheelchairs.

(2) The regulations may, in particular, make provision as to the construction, use and maintenance of regulated rail vehicles including provision as to—

(a) the fitting of equipment to vehicles;
(b) equipment to be carried by vehicles;
(c) the design of equipment to be fitted to, or carried by, vehicles;
(d) the use of equipment fitted to, or carried by, vehicles;
(e) the toilet facilities to be provided in vehicles;
(f) the location and floor area of the wheelchair accommodation to be provided in vehicles;
(g) assistance to be given to disabled persons.

(3) The regulations may contain different provision—

(a) as respects different classes or descriptions of rail vehicle;
(b) as respects the same class or description of rail vehicle in different circumstances;
(c) as respects different networks.

(4) In this section—

"network" means any permanent way or other means of guiding or supporting rail vehicles, or any section of it;

"rail vehicle" means a vehicle constructed or adapted to carry passengers on a railway, tramway or prescribed system other than a vehicle used in the provision of a service for the carriage of passengers on the **[** trans-European rail system located in Great Britain **]** [1] ;

"regulated rail vehicle" means a rail vehicle to which provisions of rail vehicle accessibility regulations are expressed to apply.

(5) In subsection (4)—

[…][2]

"prescribed system" means a system using a mode of guided transport ("guided transport" having the same meaning as in the Transport and Works Act 1992) that is specified in rail vehicle accessibility regulations;

"railway" and "tramway" have the same meaning as in the Transport and Works Act 1992 **[** ; **]** [3]

["trans-European rail system" has the meaning given in regulation 2(1) of the Railways (Interoperability) Regulations 2011. **]** [3]

(6) The Secretary of State must exercise the power to make rail vehicle accessibility regulations so as to secure that on and after 1 January 2020 every rail vehicle is a regulated rail vehicle.

(7) Subsection (6) does not affect subsection (3), section 183(1) or section 207(4)(a).

(8) Before making regulations under subsection (1) or section 183, the Secretary of State must consult—

(a) the Disabled Persons Transport Advisory Committee, and

(b) such other representative organisations as the Secretary of State thinks fit.

Notes

[1] Words substituted by Railways (Interoperability) Regulations 2011/3066 Sch.1 para.1(a) (January 16, 2012)

[2] Definition repealed by Railways (Interoperability) Regulations 2011/3066 Sch.1 para.1(b)(i) (January 16, 2012)

[3] Definition inserted by Railways (Interoperability) Regulations 2011/3066 Sch.1 para.1(b)(ii) (January 16, 2012)

Commencement

Pt 12 c. 3 s. 182(1)-(8)(b): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 3 s. 182(1)-(8)(b): England, Wales, Scotland

Law In Force With Amendments Pending

183 Exemptions from rail vehicle accessibility regulations

(1) The Secretary of State may by order (an "exemption order")—

(a) authorise the use for carriage of a regulated rail vehicle even though the vehicle does not conform with the provisions of rail vehicle accessibility regulations with which it is required to conform;

(b) authorise a regulated rail vehicle to be used for carriage otherwise than in conformity with the provisions of rail vehicle accessibility regulations with which use of the vehicle is required to conform.

(2) Authority under subsection (1)(a) or (b) may be for—

(a) a regulated rail vehicle that is specified or of a specified description,

(b) use in specified circumstances of a regulated rail vehicle, or

(c) use in specified circumstances of a regulated rail vehicle that is specified or of a specified description.

(3) **[…]**[1]

(4) After consulting the Disabled Persons Transport Advisory Committee and such other persons as the Secretary of State thinks appropriate, the Secretary of State may—

(a) make an exemption order in the terms of the application for the order;

(b) make an exemption order in such other terms as the Secretary of State thinks appropriate;

(c) refuse to make an exemption order.

(5) The Secretary of State may make an exemption order subject to such conditions and restrictions as are specified.

(6) "Specified" means specified in an exemption order.

Notes

[1] Repealed by Deregulation Act 2015 c. 20 Sch.10(7) para.29(2) (October 1, 2015)

Amendments Pending

Pt 12 c. 3 s. 183(7): added by Deregulation Act 2015 c. 20, Sch. 10(7) para. 29(3) (date to be appointed: insertion has effect subject to transitional provisions as specified in 2015 c.20 Sch.10 para.31)

Commencement

Pt 12 c. 3 s. 183(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 3 s. 183(1)-(7): England, Wales, Scotland

Repealed

184 [...][1]

Notes

[1] Repealed by Deregulation Act 2015 c. 20 Sch.10(7) para.30(a) (October 1, 2015)

Law In Force

185 Annual report on exemption orders

(1) After the end of each calendar year the Secretary of State must prepare a report on—

(a) the exercise in that year of the power to make orders under section 183(1) **[.]** [1]

(b) **[...]**[1]

(2) A report under subsection (1) must (in particular) contain—

(a) details of each order made under section 183(1) in the year in question;

(b) details of consultation carried out under **[** section 183(4) **]** [2] in connection with orders made in that year under section 183(1).

(3) The Secretary of State must lay before Parliament each report prepared under this section.

Notes

[1] Repealed by Deregulation Act 2015 c. 20 Sch.10(7) para.30(b)(i) (October 1, 2015)

[2] Words substituted by Deregulation Act 2015 c. 20 Sch.10(7) para.30(b)(ii) (October 1, 2015)

Commencement

Pt 12 c. 3 s. 185(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(12)(f))

Extent

Pt 12 c. 3 s. 185(1)-(3): England, Wales, Scotland

Repealed

186 [...][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Law In Force

187 Interpretation

(1) In this Chapter—

"rail vehicle" and "regulated rail vehicle" have the meaning given in section 182(4);

"rail vehicle accessibility regulations" has the meaning given in section 182(1).

(2) For the purposes of this Chapter a vehicle is used "for carriage" if it is used for the carriage of passengers.

Commencement

Pt 12 c. 3 s. 187(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(12)(g))

Extent

Pt 12 c. 3 s. 187(1)-(2): England, Wales, Scotland

CHAPTER 4

SUPPLEMENTARY

Law In Force

188 Forgery, etc.

(1) In this section "relevant document" means—

(a) an exemption certificate issued under section 166, 169 or 171;

(b) a notice of a kind mentioned in section 166(3)(b), 169(4)(b) or 171(4)(b);

(c) an accessibility certificate (see section 176);

(d) an approval certificate (see section 177).

(2) A person commits an offence if, with intent to deceive, the person—

(a) forges, alters or uses a relevant document;

(b) lends a relevant document to another person;

(c) allows a relevant document to be used by another person;

(d) makes or has possession of a document which closely resembles a relevant document.

(3) A person guilty of an offence under subsection (2) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.

(4) A person commits an offence by knowingly making a false statement for the purpose of obtaining an accessibility certificate or an approval certificate.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement

Pt 12 c. 4 s. 188(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(12)(g))

Extent

Pt 12 c. 4 s. 188(1)-(5): England, Wales, Scotland

PART 13

DISABILITY: MISCELLANEOUS

Law In Force

189 Reasonable adjustments

Schedule 21 (reasonable adjustments: supplementary) has effect.

Commencement

Pt 13 s. 189: August 4, 2010 for provisions listed in SI 2010/1736 Sch.1 and for the purpose of making subordinate legislation or guidance under the provisions so listed; October 1, 2010 otherwise (SI 2010/1736 Sch. 1 para. 1; SI 2010/1966 art. 2(2)(vii); SI 2010/2317 art. 2(13)(a))

Extent

Pt 13 s. 189-: England, Wales, Scotland

Law In Force

190 Improvements to let dwelling houses

(1) This section applies in relation to a lease of a dwelling house if each of the following applies—

(a) the tenancy is not a protected tenancy, a statutory tenancy or a secure tenancy;

(b) the tenant or another person occupying or intending to occupy the premises is a disabled person;

(c) the disabled person occupies or intends to occupy the premises as that person's only or main home;

(d) the tenant is entitled, with the consent of the landlord, to make improvements to the premises;

(e) the tenant applies to the landlord for consent to make a relevant improvement.

(2) Where the tenant applies in writing for the consent—

(a) if the landlord refuses to give consent, the landlord must give the tenant a written statement of the reason why the consent was withheld;

(b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent must be taken to have been unreasonably withheld.

(3) If the landlord gives consent subject to a condition which is unreasonable, the consent must be taken to have been unreasonably withheld.

(4) If the landlord's consent is unreasonably withheld, it must be taken to have been given.

(5) On any question as to whether—

(a) consent was unreasonably withheld, or

(b) a condition imposed was unreasonable,

it is for the landlord to show that it was not.

(6) If the tenant fails to comply with a reasonable condition imposed by the landlord on the making of a relevant improvement, the failure is to be treated as a breach by the tenant of an obligation of the tenancy.

(7) An improvement to premises is a relevant improvement if, having regard to the disabled peron's disability, it is likely to facilitate that person's enjoyment of the premises.

(8) Subsections (2) to (7) apply only in so far as provision of a like nature is not made by the lease.

(9) In this section—

"improvement" means an alteration in or addition to the premises and includes—

(a) an addition to or alteration in the landlord's fittings and fixtures;

(b) an addition or alteration connected with the provision of services to the premises;

(c) the erection of a wireless or television aerial;

(d) carrying out external decoration;

"lease" includes a sub-lease or other tenancy, and "landlord" and "tenant" are to be construed accordingly;

"protected tenancy" has the same meaning as in section 1 of the Rent Act 1977;

"statutory tenancy" is to be construed in accordance with section 2 of that Act;

"secure tenancy" has the same meaning as in section 79 of the Housing Act 1985.

Commencement

Pt 13 s. 190(1)-(9) definition of "secure tenancy": October 1, 2010 (SI 2010/2317 art. 2(13)(b))

Extent

Pt 13 s. 190(1)-(9) definition of "secure tenancy": England, Wales

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PART 14

GENERAL EXCEPTIONS

Partially In Force

191 Statutory provisions

Schedule 22 (statutory provisions) has effect.

Commencement

Pt 14 s. 191: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); not yet in force otherwise (SI 2010/2317 art. 2(14)(a))

Extent

Pt 14 s. 191: England, Wales, Scotland

Law In Force

192 National security

A person does not contravene this Act only by doing, for the purpose of safeguarding national security, anything it is proportionate to do for that purpose.

Commencement

Pt 14 s. 192: October 1, 2010 (SI 2010/2317 art. 2(14)(b))

Extent

Pt 14 s. 192: England, Wales, Scotland

Law In Force

193 Charities

(1) A person does not contravene this Act only by restricting the provision of benefits to persons who share a protected characteristic if—

(a) the person acts in pursuance of a charitable instrument, and

(b) the provision of the benefits is within subsection (2).

(2) The provision of benefits is within this subsection if it is—

(a) a proportionate means of achieving a legitimate aim, or

(b) for the purpose of preventing or compensating for a disadvantage linked to the protected characteristic.

(3) It is not a contravention of this Act for—

(a) a person who provides supported employment to treat persons who have the same disability or a disability of a prescribed description more favourably than those who do not have that disability or a disability of such a description in providing such employment;

(b) a Minister of the Crown to agree to arrangements for the provision of supported employment which will, or may, have that effect.

(4) If a charitable instrument enables the provision of benefits to persons of a class defined by reference to colour, it has effect for all purposes as if it enabled the provision of such benefits—

(a) to persons of the class which results if the reference to colour is ignored, or
(b) if the original class is defined by reference only to colour, to persons generally.

(5) It is not a contravention of this Act for a charity to require members, or persons wishing to become members, to make a statement which asserts or implies membership or acceptance of a religion or belief; and for this purpose restricting the access by members to a benefit, facility or service to those who make such a statement is to be treated as imposing such a requirement.

(6) Subsection (5) applies only if—
(a) the charity, or an organisation of which it is part, first imposed such a requirement before 18 May 2005, and
(b) the charity or organisation has not ceased since that date to impose such a requirement.

(7) It is not a contravention of section 29 for a person, in relation to an activity which is carried on for the purpose of promoting or supporting a charity, to restrict participation in the activity to persons of one sex.

(8) A charity regulator does not contravene this Act only by exercising a function in relation to a charity in a manner which the regulator thinks is expedient in the interests of the charity, having regard to the charitable instrument.

(9) Subsection (1) does not apply to a contravention of—
(a) section 39;
(b) section 40;
(c) section 41;
(d) section 55, so far as relating to the provision of vocational training.

(10) Subsection (9) does not apply in relation to disability.

Commencement

Pt 14 s. 193(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(14)(b))

Extent

Pt 14 s. 193(1)-(10): England, Wales, Scotland

Law In Force

194 Charities: supplementary

(1) This section applies for the purposes of section 193.

(2) That section does not apply to race, so far as relating to colour.

(3) "Charity" —
(a) in relation to England and Wales, has the meaning given by **[** section 1(1) of the Charities Act 2011 **]** [1] ;
(b) in relation to Scotland, means a body entered in the Scottish Charity Register.

(4) "Charitable instrument" means an instrument establishing or governing a charity (including an instrument made or having effect before the commencement of this section).

(5) The charity regulators are—

(a) the Charity Commission for England and Wales;
(b) the Scottish Charity Regulator.

(6) Section 107(5) applies to references in subsection (5) of section 193 to members, or persons wishing to become members, of a charity.

(7) "Supported employment" means facilities provided, or in respect of which payments are made, under section 15 of the Disabled Persons (Employment) Act 1944.

Notes

[1] Words substituted by Charities Act 2011 c. 25 Sch.7(2) para.144 (March 14, 2012: substitution has effect subject to transitional provisions and savings specified in 2011 c.25 Sch.7 para.2 and Sch.8)

Commencement

Pt 14 s. 194(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(14)(b))

Extent

Pt 14 s. 194(1)-(7): England, Wales, Scotland

Law In Force

195 Sport

(1) A person does not contravene this Act, so far as relating to sex, only by doing anything in relation to the participation of another as a competitor in a gender-affected activity.

(2) A person does not contravene section 29, 33, 34 or 35, so far as relating to gender reassignment, only by doing anything in relation to the participation of a transsexual person as a competitor in a gender-affected activity if it is necessary to do so to secure in relation to the activity—
(a) fair competition, or
(b) the safety of competitors.

(3) A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.

(4) In considering whether a sport, game or other activity is gender-affected in relation to children, it is appropriate to take account of the age and stage of development of children who are likely to be competitors.

(5) A person who does anything to which subsection (6) applies does not contravene this Act only because of the nationality or place of birth of another or because of the length of time the other has been resident in a particular area or place.

(6) This subsection applies to—
(a) selecting one or more persons to represent a country, place or area or a related association, in a sport or game or other activity of a competitive nature;
(b) doing anything in pursuance of the rules of a competition so far as relating to eligibility to compete in a sport or game or other such activity.

[(7) A person does not contravene this Act, so far as relating to age discrimination, only by doing anything in relation to the participation of another as a competitor in an age-banded activity if it is necessary to do so—

(a) to secure in relation to the activity fair competition or the safety of competitors,
(b) to comply with the rules of a national or international competition, or
(c) to increase participation in that activity.

(8) For the purposes of subsection (7), an age-banded activity is a sport, game or other activity of a competitive nature in circumstances in which the physical or mental strength, agility, stamina, physique, mobility, maturity or manual dexterity of average persons of a particular age group would put them at a disadvantage compared to average persons of another age group as competitors in events involving the activity. **]** [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.9 (October 1, 2012)

Commencement

Pt 14 s. 195(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(14)(b))

Extent

Pt 14 s. 195(1)-(8): England, Wales, Scotland

Partially In Force

196 General

Schedule 23 (general exceptions) has effect.

Commencement

Pt 14 s. 196: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(e); not yet in force otherwise (SI 2010/2317 art. 2(14)(c))

Extent

Pt 14 s. 196: England, Wales, Scotland

Law In Force

197 Age

(1) A Minister of the Crown may by order amend this Act to provide that any of the following does not contravene this Act so far as relating to age—

(a) specified conduct;
(b) anything done for a specified purpose;
(c) anything done in pursuance of arrangements of a specified description.

(2) Specified conduct is conduct—

(a) of a specified description,

(b) carried out in specified circumstances, or
(c) by or in relation to a person of a specified description.

(3) An order under this section may—
(a) confer on a Minister of the Crown or the Treasury a power to issue guidance about the operation of the order (including, in particular, guidance about the steps that may be taken by persons wishing to rely on an exception provided for by the order);
(b) require the Minister or the Treasury to carry out consultation before issuing guidance under a power conferred by virtue of paragraph (a);
(c) make provision (including provision to impose a requirement) that refers to guidance issued under a power conferred by virtue of paragraph (a).

(4) Guidance given by a Minister of the Crown or the Treasury in anticipation of the making of an order under this section is, on the making of the order, to be treated as if it has been issued in accordance with the order.

(5) For the purposes of satisfying a requirement imposed by virtue of subsection (3)(b), the Minister or the Treasury may rely on consultation carried out before the making of the order that imposes the requirement (including consultation carried out before the commencement of this section).

(6) Provision by virtue of subsection (3)(c) may, in particular, refer to provisions of the guidance that themselves refer to a document specified in the guidance.

(7) Guidance issued (or treated as issued) under a power conferred by virtue of subsection (3)(a) comes into force on such day as the person who issues the guidance may by order appoint; and an order under this subsection may include the text of the guidance or of extracts from it.

(8) This section is not affected by any provision of this Act which makes special provision in relation to age.

(9) The references to this Act in subsection (1) do not include references to—
(a) Part 5 (work);
(b) Chapter 2 of Part 6 (further and higher education).

Commencement

Pt 14 s. 197(1)-(9)(b): June 19, 2012 (SI 2012/1569 art. 2)

Extent

Pt 14 s. 197(1)-(9)(b): England, Wales, Scotland

PART 15

FAMILY PROPERTY

Not Yet In Force

198 Abolition of husband's duty to maintain wife

The rule of common law that a husband must maintain his wife is abolished.

Commencement

Pt 15 s. 198: Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(2))

Extent

Pt 15 s. 198: England, Wales

Not Yet In Force

199 Abolition of presumption of advancement

(1) The presumption of advancement (by which, for example, a husband is presumed to be making a gift to his wife if he transfers property to her, or purchases property in her name) is abolished.

(2) The abolition by subsection (1) of the presumption of advancement does not have effect in relation to—

(a) anything done before the commencement of this section, or

(b) anything done pursuant to any obligation incurred before the commencement of this section.

Commencement

Pt 15 s. 199(1)-(2)(b): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(2))

Extent

Pt 15 s. 199(1)-(2)(b): England, Wales, Northern Ireland

Not Yet In Force

200 Amendment of Married Women's Property Act 1964

(1) In section 1 of the Married Women's Property Act 1964 (money and property derived from housekeeping allowance made by husband to be treated as belonging to husband and wife in equal shares)—

(a) for “the husband for” substitute “either of them for”, and

(b) for “the husband and the wife” substitute “them”.

(2) Accordingly, that Act may be cited as the Matrimonial Property Act 1964.

(3) The amendments made by this section do not have effect in relation to any allowance made before the commencement of this section.

Commencement

Pt 15 s. 200(1)-(3): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(2))

Extent

Pt 15 s. 200(1)-(3): England, Wales

Not Yet In Force

201 Civil partners: housekeeping allowance

(1) After section 70 of the Civil Partnership Act 2004 insert—

> **"70A Money and property derived from housekeeping allowance**
> Section 1 of the Matrimonial Property Act 1964 (money and property derived from housekeeping allowance to be treated as belonging to husband and wife in equal shares) applies in relation to—
>
> (a) money derived from any allowance made by a civil partner for the expenses of the civil partnership home or for similar purposes, and
>
> (b) any property acquired out of such money,
>
> as it applies in relation to money derived from any allowance made by a husband or wife for the expenses of the matrimonial home or for similar purposes, and any property acquired out of such money."

(2) The amendment made by this section does not have effect in relation to any allowance made before the commencement of this section.

Commencement

Pt 15 s. 201(1)-(2): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(2))

Extent

Pt 15 s. 201(1)-(2): England, Wales

PART 16

GENERAL AND MISCELLANEOUS

Civil partnerships

Law In Force

202 Civil partnerships on religious premises

(1) The Civil Partnership Act 2004 is amended as follows.

(2) Omit section 6(1)(b) and (2) (prohibition on use of religious premises for registration of civil partnership).

(3) In section 6A (power to approve premises for registration of civil partnership), after subsection (2), insert—

> "(2A) Regulations under this section may provide that premises approved for the registration of civil partnerships may differ from those premises approved for the registration of civil marriages.
>
> (2B) Provision by virtue of subsection (2)(b) may, in particular, provide that applications for approval of premises may only be made with the consent (whether general or specific) of a person specified, or a person of a description specified, in the provision.
>
> (2C) The power conferred by section 258(2), in its application to the power conferred by this section, includes in particular—
>
> (a) power to make provision in relation to religious premises that differs from provision in relation to other premises;
>
> (b) power to make different provision for different kinds of religious premises."

(4) In that section, after subsection (3), insert—

> "(3A) For the avoidance of doubt, nothing in this Act places an obligation on religious organisations to host civil partnerships if they do not wish to do so.
>
> (3B) "Civil marriage" means marriage solemnised otherwise than according to the rites of the Church of England or any other religious usages.
>
> (3C) "Religious premises" means premises which—
>
> (a) are used solely or mainly for religious purposes, or
>
> (b) have been so used and have not subsequently been used solely or mainly for other purposes."

Commencement

Pt 16 s. 202(1): July 11, 2011 for provisions specified in SI 2011/1636 art.2(c) and (d); December 5, 2011 otherwise (SI 2011/1636 art. 2(b), art. 2(c), art. 2(d); SI 2011/2646 art. 2)

Pt 16 s. 202(2): December 5, 2011 (SI 2011/2646 art. 2)

Pt 16 s. 202(3): July 11, 2011 (SI 2011/1636 art. 2(c))

Pt 16 s. 202(4): July 11, 2011 for the purpose specified in SI 2011/1636 art.2(d); December 5, 2011 otherwise (SI 2011/1636 art. 2(d); SI 2011/2646 art. 2)

Extent

Pt 16 s. 202(1)-(4): England, Wales, Scotland

EU obligations

Repealed

203 […][1]

Notes

[1] Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Repealed

204 […][1]

Notes

[1] Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(5) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Application

Law In Force

205 Crown application

(1) The following provisions of this Act bind the Crown—

(a) Part 1 (public sector duty regarding socio-economic inequalities);

(b) Part 3 (services and public functions), so far as relating to the exercise of public functions;

(c) Chapter 1 of Part 11 (public sector equality duty).

(2) Part 5 (work) binds the Crown as provided for by that Part.

(3) The remainder of this Act applies to Crown acts as it applies to acts done by a private person.

(4) For the purposes of subsection (3), an act is a Crown act if (and only if) it is done—

(a) by or on behalf of a member of the executive,

(b) by a statutory body acting on behalf of the Crown, or

(c) by or on behalf of the holder of a statutory office acting on behalf of the Crown.

(5) A statutory body or office is a body or office established by an enactment.

(6) The provisions of Parts 2 to 4 of the Crown Proceedings Act 1947 apply to proceedings against the Crown under this Act as they apply to proceedings in England and Wales which, as a result of section 23 of that Act, are treated for the purposes of Part 2 of that Act as civil proceedings by or against the Crown.

(7) The provisions of Part 5 of that Act apply to proceedings against the Crown under this Act as they apply to proceedings in Scotland which, as a result of that Part, are treated as civil proceedings by or against the Crown.

(8) But the proviso to section 44 of that Act (removal of proceedings from the sheriff to the Court of Session) does not apply to proceedings under this Act.

Commencement

Pt 16 s. 205(1)-(8): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 205(1)-(8): England, Wales, Scotland

Law In Force

206 Information society services

Schedule 25 (information society services) has effect.

Commencement

Pt 16 s. 206: October 1, 2010 (SI 2010/2317 art. 2(15)(a))

Extent

Pt 16 s. 206: England, Wales, Scotland

Subordinate legislation

Law In Force

207 Exercise of power

(1) A power to make an order or regulations under this Act is exercisable by a Minister of the Crown, unless there is express provision to the contrary.

(2) Orders, regulations or rules under this Act must be made by statutory instrument.

(3) Subsection (2) does not apply to—

(a) a transitional exemption order under Part 1 of Schedule 11,

(b) a transitional exemption order under Part 1 of Schedule 12, or

(c) an order under paragraph 1(3) of Schedule 14 that does not modify an enactment.

(4) Orders or regulations under this Act—

(a) may make different provision for different purposes;

(b) may include consequential, incidental, supplementary, transitional, transitory or saving provision.

(5) Nothing in [section 163(4), 174(4), 181A(5), 181B(6) or 182(3)][1] affects the generality of the power under subsection (4)(a).

(6) The power under subsection (4)(b), in its application to [section 37, 139A, 153, 154(2), 155(5), 197 or 216 or to paragraph 7(1) of Schedule 11 or paragraph 1(3) or 2(3) of Schedule 14][2], includes power to amend an enactment (including, in the case of [section 139A, 197 or 216][2], this Act).

(7) In the case of section 216 (commencement), provision by virtue of subsection (4)(b) may be included in a separate order from the order that provides for the commencement to which the provision relates; and, for that purpose, it does not matter—

(a) whether the order providing for the commencement includes provision by virtue of subsection (4)(b);

(b) whether the commencement has taken place.

(8) A statutory instrument containing an Order in Council under section 82 (offshore work) is subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

[1] Words inserted by Bus Services Act 2017 c. 21 s.17(2) (June 26, 2018)

[2] Words inserted by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.98(3) (April 25, 2013)

Commencement

Pt 16 s. 207(1)-(8): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 207(1)-(8): England, Wales, Scotland

Law In Force

208 Ministers of the Crown, etc.

(1) This section applies where the power to make an order or regulations under this Act is exercisable by a Minister of the Crown or the Treasury.

(2) A statutory instrument containing (whether alone or with other provision) an order or regulations that amend this Act or another Act of Parliament, or an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales, is subject to the affirmative procedure.

(3) But a statutory instrument is not subject to the affirmative procedure by virtue of subsection (2) merely because it contains—

(a) an order under section 59 (local authority functions);

(b) an order under section 151 (power to amend list of public authorities for the purposes of the public sector equality duty) that provides for the omission of an entry where the authority concerned has ceased to exist or the variation of an entry where the authority concerned has changed its name;

(c) an order under paragraph 1(3) of Schedule 14 (educational charities and endowments) that modifies an enactment.

(4) A statutory instrument containing (whether alone or with other provision) an order or regulations mentioned in subsection (5) is subject to the affirmative procedure.

(5) The orders and regulations referred to in subsection (4) are—

(a) regulations under section 30 (services: ships and hovercraft);

(b) regulations under section 78 (gender pay gap information);

(c) regulations under section 81 (work: ships and hovercraft);

(d) an order under section 105 (election candidates: expiry of provision);

(e) regulations under section 106 (election candidates: diversity information);

[(ea) regulations under section 139A (equal pay audits); **]** [1]

(f) regulations under section 153 or 154(2) (public sector equality duty: powers to impose specific duties);

[(fa) regulations under section 181A or 181B (information for bus passengers); **]** [2]

(g) **[…]**[3]

(h) **[…]**[4]

(i) regulations under paragraph 9(3) of Schedule 20 (rail vehicle accessibility: determination of turnover for purposes of penalties).

(6) A statutory instrument that is not subject to the affirmative procedure by virtue of subsection (2) or (4) is subject to the negative procedure.

(7) But a statutory instrument is not subject to the negative procedure by virtue of subsection (6) merely because it contains—

(a) **[…]**[5]

(b) an order under section 216 (commencement) that—

(i) does not amend an Act of Parliament, an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales, and

(ii) is not made in reliance on section 207(7).

(8) If a statutory instrument is subject to the affirmative procedure, the order or regulations contained in it must not be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.

(9) If a statutory instrument is subject to the negative procedure, it is subject to annulment in pursuance of a resolution of either House of Parliament.

(10) If a draft of a statutory instrument containing an order or regulations under section 2, 151, 153, 154(2) or 155(5) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

Notes

1 Added by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 6 s.98(4) (April 25, 2013)

2 Added by Bus Services Act 2017 c. 21 s.17(3) (June 26, 2018)

3 Repealed by Deregulation Act 2015 c. 20 Sch.10(7) para.30(c)(i) (October 1, 2015)

4 Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(6) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

5 Repealed by Deregulation Act 2015 c. 20 Sch.10(7) para.30(c)(ii) (October 1, 2015)

Commencement

Pt 16 s. 208(1)-(10): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 208(1)-(5)(f), (5)(g)-(10): England, Wales, Scotland

Pt 16 s. 208(5)(fa): (extent not available)

Law In Force

209 The Welsh Ministers

(1) This section applies where the power to make an order or regulations under this Act is exercisable by the Welsh Ministers.

(2) A statutory instrument containing (whether alone or with other provision) an order or regulations mentioned in subsection (3) is subject to the affirmative procedure.

(3) The orders and regulations referred to in subsection (2) are—

(a) regulations under section 2 (socio-economic inequalities);

(b) an order under section 151 (power to amend list of public authorities for the purposes of the public sector equality duty);

(c) regulations under section 153 or 154(2) (public sector equality duty: powers to impose specific duties);

(d) regulations under section 155(5) that amend an Act of Parliament or an Act or Measure of the National Assembly for Wales (public sector equality duty: power to modify or remove specific duties) **[** ; **]** [1]

[(e) regulations under paragraph 6, 6A or 6F of Schedule 17 (tribunal procedure, case friends and capacity of parents and persons over compulsory school age). **]** [1]

(4) But a statutory instrument is not subject to the affirmative procedure by virtue of subsection (2) merely because it contains an order under section 151 that provides for—

(a) the omission of an entry where the authority concerned has ceased to exist, or

(b) the variation of an entry where the authority concerned has changed its name.

(5) A statutory instrument that is not subject to the affirmative procedure by virtue of subsection (2) is subject to the negative procedure.

(6) If a statutory instrument is subject to the affirmative procedure, the order or regulations contained in it must not be made unless a draft of the instrument is laid before and approved by a resolution of the National Assembly for Wales.

(7) If a statutory instrument is subject to the negative procedure, it is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Notes

[1] Added by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(4) (September 1, 2021: 2018 anaw 2 Sch.1 para.19(4) came into force on November 2, 2020 as specified in SI 2020/1182 art.3(1)(e) for the limited purpose of making regulations; September 1, 2021 as specified in SI 2021/373 art.8(j)(xxxiii) otherwise)

Commencement

Pt 16 s. 209(1)-(7): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 209(1)-(7): England, Wales, Scotland

Law In Force

210 The Scottish Ministers

(1) This section applies where the power to make an order, regulations or rules under this Act is exercisable by the Scottish Ministers.

(2) A statutory instrument containing (whether alone or with other provision) an order or regulations mentioned in subsection (3) is subject to the affirmative procedure.

(3) The orders and regulations referred to in subsection (2) are—

(a) regulations under section 2 (socio-economic inequalities);

(b) regulations under section 37 (power to make provision about adjustments to common parts in Scotland);

(c) an order under section 151 (power to amend list of public authorities for the purposes of the public sector equality duty);

(d) regulations under section 153 or 154(2) (public sector equality duty: powers to impose specific duties);

(e) regulations under section 155(5) that amend an Act of Parliament or an Act of the Scottish Parliament (public sector equality duty: power to modify or remove specific duties).

(4) But a statutory instrument is not subject to the affirmative procedure by virtue of subsection (2) merely because it contains an order under section 151 that provides for—

(a) the omission of an entry where the authority concerned has ceased to exist, or

(b) the variation of an entry where the authority concerned has changed its name.

(5) A statutory instrument that is not subject to the affirmative procedure by virtue of subsection (2) is subject to the negative procedure.

(6) If a statutory instrument is subject to the affirmative procedure, the order or regulations contained in it must not be made unless a draft of the instrument is laid before and approved by a resolution of the Scottish Parliament.

(7) If a statutory instrument is subject to the negative procedure, it is subject to annulment in pursuance of a resolution of the Scottish Parliament.

Commencement

Pt 16 s. 210(1)-(7): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 210(1)-(7): England, Wales, Scotland

Amendments, etc.

Partially In Force

211 Amendments, repeals and revocations

(1) Schedule 26 (amendments) has effect.

(2) Schedule 27 (repeals and revocations) has effect.

Commencement

Pt 16 s. 211(1): July 6, 2010 for provisions specified in SI 2010/1736 art.3(1)(a) and (b); August 4, 2010 for the provision specified in SI 2010/1966 art.3(a) and (b); October 1, 2010 for provisions specified in SI 2010/2317 art.2(15)(b) and (e); April 5, 2011 for provisions specified in SI 2011/1066 art.2(d) and (g); not yet in force otherwise (SI 2010/1736 art. 3(1)(a), art. 3(1)(b); SI 2010/1966 art. 3(a), art. 3(b); SI 2010/2317 art. 2(15)(b); SI 2011/1066 art. 2(d), art. 2(g))

Pt 16 s. 211(2): October 1, 2010 except for provisions specified in SI 2010/2317 art.2(15)(c) and (f); April 5, 2011 otherwise except for the repeals specified in SI 2011/1066 art.2(e) and (h); not yet in force otherwise (SI 2010/2317 art. 2(15)(c); SI 2011/1066 art. 2(e), art. 2(h))

Extent

Pt 16 s. 211(1)-(2): England, Wales, Scotland

Interpretation

Law In Force

212 General interpretation

(1) In this Act—

"armed forces" means any of the naval, military or air forces of the Crown;

"the Commission" means the Commission for Equality and Human Rights;

"detriment" does not, subject to subsection (5), include conduct which amounts to harassment;

"the Education Acts" has the meaning given in section 578 of the Education Act 1996;

"employment" and related expressions are (subject to subsection (11)) to be read with section 83;

"enactment" means an enactment contained in—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) an Act or Measure of the National Assembly for Wales, or

(d) subordinate legislation;

"equality clause" means a sex equality clause or maternity equality clause;

"equality rule" means a sex equality rule or maternity equality rule;

"man" means a male of any age;

"maternity equality clause" has the meaning given in section 73;

"maternity equality rule" has the meaning given in section 75;

"non-discrimination rule" has the meaning given in section 61;

"occupational pension scheme" has the meaning given in section 1 of the Pension Schemes Act 1993;

"parent" has the same meaning as in—

(a) the Education Act 1996 (in relation to England and Wales);

(b) the Education (Scotland) Act 1980 (in relation to Scotland);

"prescribed" means prescribed by regulations;

"profession" includes a vocation or occupation;

"sex equality clause" has the meaning given in section 66;

"sex equality rule" has the meaning given in section 67;

"subordinate legislation" means—

(a) subordinate legislation within the meaning of the Interpretation Act 1978, or

(b) an instrument made under an Act of the Scottish Parliament or an Act or Measure of the National Assembly for Wales;

"substantial" means more than minor or trivial;

"trade" includes any business;

"woman" means a female of any age.

(2) A reference (however expressed) to an act includes a reference to an omission.

(3) A reference (however expressed) to an omission includes (unless there is express provision to the contrary) a reference to—

(a) a deliberate omission to do something;

(b) a refusal to do it;

(c) a failure to do it.

(4) A reference (however expressed) to providing or affording access to a benefit, facility or service includes a reference to facilitating access to the benefit, facility or service.

(5) Where this Act disapplies a prohibition on harassment in relation to a specified protected characteristic, the disapplication does not prevent conduct relating to that characteristic from amounting to a detriment for the purposes of discrimination within section 13 because of that characteristic.

(6) A reference to occupation, in relation to premises, is a reference to lawful occupation.

(7) The following are members of the executive—

(a) a Minister of the Crown;

(b) a government department;

(c) the Welsh Ministers, the First Minister for Wales or the Counsel General to the **[** Welsh Government **]** [1] ;

(d) any part of the Scottish Administration.

(8) A reference to a breach of an equality clause or rule is a reference to a breach of a term modified by, or included by virtue of, an equality clause or rule.

(9) A reference to a contravention of this Act does not include a reference to a breach of an equality clause or rule, unless there is express provision to the contrary.

(10) "Member", in relation to an occupational pension scheme, means an active member, a deferred member or a pensioner member (within the meaning, in each case, given by section 124 of the Pensions Act 1995).

(11) "Employer", "deferred member", "pension credit member", "pensionable service", "pensioner member" and "trustees or managers" each have, in relation to an occupational pension scheme, the meaning given by section 124 of the Pensions Act 1995.

(12) A reference to the accrual of rights under an occupational pension scheme is to be construed in accordance with that section.

(13) Nothing in section 28, 32, 84, 90, 95 or 100 is to be regarded as an express exception.

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Commencement

Pt 16 s. 212(1)-(13): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 212(1)-(13): England, Wales, Scotland

Law In Force

213 References to maternity leave, etc.

(1) This section applies for the purposes of this Act.

(2) A reference to a woman on maternity leave is a reference to a woman on—

(a) compulsory maternity leave,
(b) ordinary maternity leave, or
(c) additional maternity leave.

(3) A reference to a woman on compulsory maternity leave is a reference to a woman absent from work because she satisfies the conditions prescribed for the purposes of section 72(1) of the Employment Rights Act 1996.

(4) A reference to a woman on ordinary maternity leave is a reference to a woman absent from work because she is exercising the right to ordinary maternity leave.

(5) A reference to the right to ordinary maternity leave is a reference to the right conferred by section 71(1) of the Employment Rights Act 1996.

(6) A reference to a woman on additional maternity leave is a reference to a woman absent from work because she is exercising the right to additional maternity leave.

(7) A reference to the right to additional maternity leave is a reference to the right conferred by section 73(1) of the Employment Rights Act 1996.

(8) “Additional maternity leave period” has the meaning given in section 73(2) of that Act.

Commencement

Pt 16 s. 213(1)-(8): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 213(1)-(8): England, Wales, Scotland

Law In Force

214 Index of defined expressions

Schedule 28 lists the places where expressions used in this Act are defined or otherwise explained.

Commencement

Pt 16 s. 214: April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 214: England, Wales, Scotland

Final provisions

Law In Force

215 Money

There is to be paid out of money provided by Parliament any increase attributable to this Act in the expenses of a Minister of the Crown.

Commencement

Pt 16 s. 215: April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 215: England, Wales, Scotland

Law In Force

216 Commencement

(1) The following provisions come into force on the day on which this Act is passed—

(a) section 186(2) (rail vehicle accessibility: compliance);

(b) this Part (except sections 202 (civil partnerships on religious premises), 206 (information society services) and 211 (amendments, etc)).

(2) Part 15 (family property) comes into force on such day as the Lord Chancellor may by order appoint.

(3) **[** Subject to **[** subsections (4) and (6) **]**[2] , the **]**[1] other provisions of this Act come into force on such day as a Minister of the Crown may by order appoint.

[(4) The following provisions of Part 1 (socio-economic inequalities) come into force on such day as the Scottish Ministers may by order appoint—

(a) section 1, so far as it applies to a relevant authority as defined by section 2(5);

(b) section 2, so far as it confers a power on the Scottish Ministers;

(c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a).

(5) The following do not apply to an order under subsection (4)—

(a) section 207(2) (see instead section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: powers exercisable by Scottish statutory instrument), and

(b) section 210.

] [3]

[(6) The following provisions of Part 1 come into force on such day as the Welsh Ministers may by order appoint—

(a) section 1, so far as it applies to a relevant authority as defined by section 2(6);

(b) section 2, so far as it confers a power on the Welsh Ministers;

(c) section 3, for the purposes of section 1 to the extent mentioned in paragraph (a).

(7) Section 209 does not apply to an order under subsection (6). **]** [4]

Notes

[1] Words inserted by Scotland Act 2016 c. 11 Pt 4 s.38(9) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)

[2] Words substituted by Wales Act 2017 c. 4 Pt 2 s.45(5) (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

[3] Added by Scotland Act 2016 c. 11 Pt 4 s.38(9) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)

[4] Added by Wales Act 2017 c. 4 Pt 2 s.45(6) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(i) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 16 s. 216(1)-(3): April 8, 2010

Extent

Pt 16 s. 216(1)-(5)(b): England, Wales, Scotland

Pt 16 s. 216(6)-(7): (extent not available)

Law In Force

217 Extent

(1) This Act forms part of the law of England and Wales.

(2) This Act, apart from section 190 (improvements to let dwelling houses) and Part 15 (family property), forms part of the law of Scotland.

(3) Each of the following also forms part of the law of Northern Ireland—

(a) section 82 (offshore work);

(b) section 105(3) and (4) (expiry of Sex Discrimination (Election Candidates) Act 2002);

(c) section 199 (abolition of presumption of advancement).

Commencement

Pt 16 s. 217(1)-(3)(c): April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 217(1)-(3)(c): England, Wales, Scotland

Law In Force

218 Short title

This Act may be cited as the Equality Act 2010.

Commencement

Pt 16 s. 218: April 8, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Pt 16 s. 218: England, Wales, Scotland

SCHEDULE 1

DISABILITY: SUPPLEMENTARY PROVISION

Section 6

PART 1

DETERMINATION OF DISABILITY

Law In Force

1 Impairment

Regulations may make provision for a condition of a prescribed description to be, or not to be, an impairment.

Commencement

Sch. 1(1) para. 1: July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 1-: England, Wales, Scotland

Law In Force

2 Long-term effects

(1) The effect of an impairment is long-term if—

(a) it has lasted for at least 12 months,

(b) it is likely to last for at least 12 months, or

(c) it is likely to last for the rest of the life of the person affected.

(2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

(3) For the purposes of sub-paragraph (2), the likelihood of an effect recurring is to be disregarded in such circumstances as may be prescribed.

(4) Regulations may prescribe circumstances in which, despite sub-paragraph (1), an effect is to be treated as being, or as not being, long-term.

Commencement

Sch. 1(1) para. 2(1)-(4): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 2-(4): England, Wales, Scotland

Law In Force

3 Severe disfigurement

(1) An impairment which consists of a severe disfigurement is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities.

(2) Regulations may provide that in prescribed circumstances a severe disfigurement is not to be treated as having that effect.

(3) The regulations may, in particular, make provision in relation to deliberately acquired disfigurement.

Commencement

Sch. 1(1) para. 3(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 3-(3): England, Wales, Scotland

Law In Force

4 Substantial adverse effects

Regulations may make provision for an effect of a prescribed description on the ability of a person to carry out normal day-to-day activities to be treated as being, or as not being, a substantial adverse effect.

Commencement

Sch. 1(1) para. 4: July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 4-: England, Wales, Scotland

Law In Force

5 Effect of medical treatment

(1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if—

(a) measures are being taken to treat or correct it, and

(b) but for that, it would be likely to have that effect.

(2) “Measures” includes, in particular, medical treatment and the use of a prosthesis or other aid.

(3) Sub-paragraph (1) does not apply—

(a) in relation to the impairment of a person's sight, to the extent that the impairment is, in the person's case, correctable by spectacles or contact lenses or in such other ways as may be prescribed;

(b) in relation to such other impairments as may be prescribed, in such circumstances as are prescribed.

Commencement

Sch. 1(1) para. 5(1)-(3)(b): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 5-(3)(b): England, Wales, Scotland

Law In Force

6 Certain medical conditions

(1) Cancer, HIV infection and multiple sclerosis are each a disability.

(2) HIV infection is infection by a virus capable of causing the Acquired Immune Deficiency Syndrome.

Commencement

Sch. 1(1) para. 6(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 6(1)-(2): England, Wales, Scotland

Law In Force

7 Deemed disability

(1) Regulations may provide for persons of prescribed descriptions to be treated as having disabilities.

(2) The regulations may prescribe circumstances in which a person who has a disability is to be treated as no longer having the disability.

(3) This paragraph does not affect the other provisions of this Schedule.

Commencement

Sch. 1(1) para. 7(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 7-(3): England, Wales, Scotland

Law In Force

8 Progressive conditions

(1) This paragraph applies to a person (P) if—

(a) P has a progressive condition,
(b) as a result of that condition P has an impairment which has (or had) an effect on P's ability to carry out normal day-to-day activities, but
(c) the effect is not (or was not) a substantial adverse effect.

(2) P is to be taken to have an impairment which has a substantial adverse effect if the condition is likely to result in P having such an impairment.

(3) Regulations may make provision for a condition of a prescribed description to be treated as being, or as not being, progressive.

Commencement

Sch. 1(1) para. 8(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 8-(3): England, Wales, Scotland

Law In Force

9 Past disabilities

(1) A question as to whether a person had a disability at a particular time ("the relevant time") is to be determined, for the purposes of section 6, as if the provisions of, or made under, this Act were in force when the act complained of was done had been in force at the relevant time.

(2) The relevant time may be a time before the coming into force of the provision of this Act to which the question relates.

Commencement

Sch. 1(1) para. 9(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(1) para. 9(1)-(2): England, Wales, Scotland

PART 2

GUIDANCE

Law In Force

10 Preliminary

This Part of this Schedule applies in relation to guidance referred to in section 6(5).

Commencement

Sch. 1(2) para. 10: July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 10-: England, Wales, Scotland

Law In Force

11 Examples

The guidance may give examples of—

(a) effects which it would, or would not, be reasonable, in relation to particular activities, to regard as substantial adverse effects;

(b) substantial adverse effects which it would, or would not, be reasonable to regard as long-term.

Commencement

Sch. 1(2) para. 11(a)-(b): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 11-(b): England, Wales, Scotland

Law In Force

12 Adjudicating bodies

(1) In determining whether a person is a disabled person, an adjudicating body must take account of such guidance as it thinks is relevant.

(2) An adjudicating body is—

(a) a court;

(b) a tribunal;

(c) a person (other than a court or tribunal) who may decide a claim relating to a contravention of Part 6 (education).

Commencement

Sch. 1(2) para. 12(1)-(2)(c): October 1, 2010 (SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 12(1)-(2)(c): England, Wales, Scotland

Law In Force

13 Representations

Before issuing the guidance, the Minister must—

(a) publish a draft of it;

(b) consider any representations made to the Minister about the draft;

(c) make such modifications as the Minister thinks appropriate in the light of the representations.

Commencement

Sch. 1(2) para. 13(a)-(c): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 13-(c): England, Wales, Scotland

Law In Force

14 Parliamentary procedure

(1) If the Minister decides to proceed with proposed guidance, a draft of it must be laid before Parliament.

(2) If, before the end of the 40-day period, either House resolves not to approve the draft, the Minister must take no further steps in relation to the proposed guidance.

(3) If no such resolution is made before the end of that period, the Minister must issue the guidance in the form of the draft.

(4) Sub-paragraph (2) does not prevent a new draft of proposed guidance being laid before Parliament.

(5) The 40-day period—

(a) begins on the date on which the draft is laid before both Houses (or, if laid before each House on a different date, on the later date);

(b) does not include a period during which Parliament is prorogued or dissolved;

(c) does not include a period during which both Houses are adjourned for more than 4 days.

Commencement

Sch. 1(2) para. 14(1)-(5)(c): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 14-(5)(c): England, Wales, Scotland

Law In Force

15 Commencement

The guidance comes into force on the day appointed by order by the Minister.

Commencement

Sch. 1(2) para. 15: July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 15-: England, Wales, Scotland

Law In Force

16 Revision and revocation

(1) The Minister may—

(a) revise the whole or part of guidance and re-issue it;

(b) by order revoke guidance.

(2) A reference to guidance includes a reference to guidance which has been revised and re-issued.

Commencement

Sch. 1(2) para. 16(1)-(2): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(2)(g))

Extent

Sch. 1(2) para. 16-(2): England, Wales, Scotland

SCHEDULE 2

SERVICES AND PUBLIC FUNCTIONS: REASONABLE ADJUSTMENTS

Section 31

Law In Force

1 Preliminary

This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

Commencement

Sch. 2 para. 1: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); September 1, 2012 otherwise (SI 2010/2317 art. 2(3)(a); SI 2012/2184 art. 2(a))

Extent

Sch. 2 para. 1: England, Wales, Scotland

Law In Force

2 The duty

(1) A must comply with the first, second and third requirements.

(2) For the purposes of this paragraph, the reference in section 20(3), (4) or (5) to a disabled person is to disabled persons generally.

(3) Section 20 has effect as if, in subsection (4), for "to avoid the disadvantage" there were substituted—

> "(a) to avoid the disadvantage, or
> (b) to adopt a reasonable alternative method of providing the service or exercising the function."

(4) In relation to each requirement, the relevant matter is the provision of the service, or the exercise of the function, by A.

(5) Being placed at a substantial disadvantage in relation to the exercise of a function means—

(a) if a benefit is or may be conferred in the exercise of the function, being placed at a substantial disadvantage in relation to the conferment of the benefit, or

(b) if a person is or may be subjected to a detriment in the exercise of the function, suffering an unreasonably adverse experience when being subjected to the detriment.

(6) In relation to the second requirement, a physical feature includes a physical feature brought by or on behalf of A, in the course of providing the service or exercising the function, on to premises other than those that A occupies (as well as including a physical feature in or on premises that A occupies).

(7) If A is a service-provider, nothing in this paragraph requires A to take a step which would fundamentally alter—

(a) the nature of the service, or

(b) the nature of A's trade or profession.

(8) If A exercises a public function, nothing in this paragraph requires A to take a step which A has no power to take.

Commencement

Sch. 2 para. 2(1)-(8): October 1, 2010 except for purposes specified in SI 2010/2317 art.2(3)(a) and (b); September 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/2184 art. 2(a))

Extent

Sch. 2 para. 2-(8): England, Wales, Scotland

Law In Force

3 Special provision about transport

(1) This paragraph applies where A is concerned with the provision of a service which involves transporting people by land, air or water.

(2) It is never reasonable for A to have to take a step which would—

(a) involve the alteration or removal of a physical feature of a vehicle used in providing the service;

(b) affect whether vehicles are provided;

(c) affect what vehicles are provided;

(d) affect what happens in the vehicle while someone is travelling in it.

(3) But, for the purpose of complying with the first or third requirement, A may not rely on sub-paragraph (2)(b), (c) or (d) if the vehicle concerned is—

(a) a hire-vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver's seat and having a maximum mass not exceeding 5 tonnes,

(b) a hire-vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes,

(c) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998 (or under a provision of a local Act corresponding to either of those provisions),

(d) a private hire car (within the meaning of section 23 of the Civic Government (Scotland) Act 1982),

(e) a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981),

(f) a vehicle built or adapted to carry passengers on a railway or tramway (within the meaning, in each case, of the Transport and Works Act 1992),

(g) a taxi,

(h) a vehicle deployed to transport the driver and passengers of a vehicle that has broken down or is involved in an accident, or

(i) a vehicle deployed on a system using a mode of guided transport (within the meaning of the Transport and Works Act 1992).

(4) In so far as the second requirement requires A to adopt a reasonable alternative method of providing the service to disabled persons, A may not, for the purpose of complying with the requirement, rely on sub-paragraph (2)(b), (c) or (d) if the vehicle is within sub-paragraph (3)(h).

(5) A may not, for the purpose of complying with the first, second or third requirement rely on sub-paragraph (2) of this paragraph if A provides the service by way of a hire-vehicle built to carry no more than 8 passengers.

(6) For the purposes of sub-paragraph (5) in its application to the second requirement, a part of a vehicle is to be regarded as a physical feature if it requires alteration in order to facilitate the provision of—

(a) hand controls to enable a disabled person to operate braking and accelerator systems in the vehicle, or

(b) facilities for the stowage of a wheelchair.

(7) For the purposes of sub-paragraph (6)(a), fixed seating and in-built electrical systems are not physical features; and for the purposes of sub-paragraph (6)(b), fixed seating is not a physical feature.

(8) In the case of a vehicle within sub-paragraph (3), a relevant device is not an auxiliary aid for the purposes of the third requirement.

(9) A relevant device is a device or structure, or equipment, the installation, operation or maintenance of which would necessitate making a permanent alteration to, or which would have a permanent effect on, the internal or external fabric of the vehicle.

(10) Regulations may amend this paragraph so as to provide for sub-paragraph (2) not to apply, or to apply only so far as is prescribed, in relation to vehicles of a prescribed description.

Commencement

Sch. 2 para. 3(1)-(10): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); September 1, 2012 otherwise (SI 2010/2317 art. 2(3)(a); SI 2012/2184 art. 2(a))

Extent

Sch. 2 para. 3-(10): England, Wales, Scotland

Law In Force

4 Interpretation

(1) This paragraph applies for the purposes of paragraph 3.

(2) A “hire-vehicle” is a vehicle hired (by way of a trade) under a hiring agreement to which section 66 of the Road Traffic Offenders Act 1988 applies.

(3) A “taxi”, in England and Wales, is a vehicle—

(a) licensed under section 37 of the Town Police Clauses Act 1847,

(b) licensed under section 6 of the Metropolitan Public Carriage Act 1869, or

(c) drawn by one or more persons or animals.

(4) A “taxi”, in Scotland, is—

(a) a hire car engaged, by arrangements made in a public place between the person to be transported (or a person acting on that person's behalf) and the driver, for a journey starting there and then, or

(b) a vehicle drawn by one or more persons or animals.

Commencement

Sch. 2 para. 4(1)-(4)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); September 1, 2012 otherwise (SI 2010/2317 art. 2(3)(a); SI 2012/2184 art. 2(a))

Extent

Sch. 2 para. 4-(4)(b): England, Wales, Scotland

SCHEDULE 3

SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

Section 31

PART 1

CONSTITUTIONAL MATTERS

Law In Force

1 Parliament

(1) Section 29 does not apply to the exercise of—

(a) a function of Parliament;

(b) a function exercisable in connection with proceedings in Parliament.

(2) Sub-paragraph (1) does not permit anything to be done to or in relation to an individual unless it is done by or in pursuance of a resolution or other deliberation of either House or of a Committee of either House.

Commencement

Sch. 3(1) para. 1(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(1) para. 1-(2): England, Wales, Scotland

Law In Force

2 Legislation

(1) Section 29 does not apply to preparing, making or considering—

(a) an Act of Parliament;
(b) a Bill for an Act of Parliament;
(c) an Act of the Scottish Parliament;
(d) a Bill for an Act of the Scottish Parliament;
(e) an Act of the National Assembly for Wales;
(f) a Bill for an Act of the National Assembly for Wales.

(2) Section 29 does not apply to preparing, making, approving or considering—
(a) a Measure of the National Assembly for Wales;
(b) a proposed Measure of the National Assembly for Wales.

(3) Section 29 does not apply to preparing, making, confirming, approving or considering an instrument which is made under an enactment by—
(a) a Minister of the Crown;
(b) the Scottish Ministers or a member of the Scottish Executive;
(c) the Welsh Ministers, the First Minister for Wales or the Counsel General to the **[** Welsh Government **]** [1] .

(4) Section 29 does not apply to preparing, making, confirming, approving or considering an instrument to which paragraph 6(a) of Schedule 2 to the Synodical Government Measure 1969 (1969 No. 2) (Measures, Canons, Acts of Synod, orders, etc.) applies.

(5) Section 29 does not apply to anything done in connection with the preparation, making, consideration, approval or confirmation of an instrument made by—
(a) Her Majesty in Council;
(b) the Privy Council.

(6) Section 29 does not apply to anything done in connection with the imposition of a requirement or condition which comes within Schedule 22 (statutory provisions).

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Commencement

Sch. 3(1) para. 2(1)-(6): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(1) para. 2-(6): England, Wales, Scotland

Law In Force

3 Judicial functions

(1) Section 29 does not apply to—
(a) a judicial function;
(b) anything done on behalf of, or on the instructions of, a person exercising a judicial function;
(c) a decision not to commence or continue criminal proceedings;

(d) anything done for the purpose of reaching, or in pursuance of, a decision not to commence or continue criminal proceedings.

(2) A reference in sub-paragraph (1) to a judicial function includes a reference to a judicial function conferred on a person other than a court or tribunal.

Commencement

Sch. 3(1) para. 3(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(1) para. 3-(2): England, Wales, Scotland

Law In Force

4 Armed forces

(1) Section 29(6), so far as relating to relevant discrimination, does not apply to anything done for the purpose of ensuring the combat effectiveness of the armed forces.

(2) "Relevant discrimination" is—

(a) age discrimination;
(b) disability discrimination;
(c) gender reassignment discrimination;
(d) sex discrimination.

Commencement

Sch. 3(1) para. 4(1)-(2)(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(1) para. 4-(2)(d): England, Wales, Scotland

Law In Force

5 Security services, etc.

Section 29 does not apply to—

(a) the Security Service;
(b) the Secret Intelligence Service;
(c) the Government Communications Headquarters;
(d) a part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

Commencement

Sch. 3(1) para. 5(a)-(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(1) para. 5-(d): England, Wales, Scotland

PART 2

EDUCATION

Law In Force

6

In its application to a local authority in England and Wales, section 29, so far as relating to age discrimination or religious or belief-related discrimination, does not apply to—

(a) the exercise of the authority's functions under section 14 of the Education Act 1996 (provision of schools);

(b) the exercise of its function under section 13 of that Act in so far as it relates to a function of its under section 14 of that Act.

Commencement

Sch. 3(2) para. 6(a)-(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 6-(b): England, Wales, Scotland

Law In Force

7

In its application to an education authority, section 29, so far as relating to age discrimination or religious or belief-related discrimination, does not apply to—

(a) the exercise of the authority's functions under section 17 of the Education (Scotland) Act 1980 (provision of schools);

(b) the exercise of its functions under section 1 of that Act, section 2 of the Standards in Scotland's Schools etc. Act 2000 (asp 6) or section 4 or 5 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (general responsibility for education) in so far as it relates to a matter specified in paragraph (a);

(c) the exercise of its functions under subsection (1) of section 50 of the Education (Scotland) Act 1980 (education of pupils in exceptional circumstances) in so far as it consists of making arrangements of the description referred to in subsection (2) of that section.

Commencement

Sch. 3(2) para. 7(a)-(c): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 7-(c): England, Wales, Scotland

Law In Force

8

(1) In its application to a local authority in England and Wales or an education authority, section 29, so far as relating to sex discrimination, does not apply to the exercise of the authority's functions in relation to the establishment of a school.

(2) But nothing in sub-paragraph (1) is to be taken as disapplying section 29 in relation to the exercise of the authority's functions under section 14 of the Education Act 1996 or section 17 of the Education (Scotland) Act 1980.

Commencement

Sch. 3(2) para. 8(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 8-(2): England, Wales, Scotland

Law In Force

9

Section 29, so far as relating to age discrimination, does not apply in relation to anything done in connection with—

(a) the curriculum of a school,
(b) admission to a school,
(c) transport to or from a school, or
(d) the establishment, alteration or closure of schools.

Commencement

Sch. 3(2) para. 9(a)-(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 9-(d): England, Wales, Scotland

Law In Force

10

(1) Section 29, so far as relating to disability discrimination, does not require a local authority in England or Wales exercising functions under the Education Acts or an education authority exercising relevant functions to remove or alter a physical feature.

(2) Relevant functions are functions under—

(a) the Education (Scotland) Act 1980,
(b) the Education (Scotland) Act 1996,
(c) the Standards in Scotland's Schools etc. Act 2000, or
(d) the Education (Additional Support for Learning) (Scotland) Act 2004.

Commencement

Sch. 3(2) para. 10(1)-(2)(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 10-(2)(d): England, Wales, Scotland

Law In Force

11

Section 29, so far as relating to religious or belief-related discrimination, does not apply in relation to anything done in connection with—

(a) the curriculum of a school;
(b) admission to a school which has a religious ethos;
(c) acts of worship or other religious observance organised by or on behalf of a school (whether or not forming part of the curriculum);
(d) the responsible body of a school which has a religious ethos;
(e) transport to or from a school;
(f) the establishment, alteration or closure of schools.

Commencement

Sch. 3(2) para. 11(a)-(f): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 11-(f): England, Wales, Scotland

Law In Force

12

This Part of this Schedule is to be construed in accordance with Chapter 1 of Part 6.

Commencement

Sch. 3(2) para. 12: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(2) para. 12: England, Wales, Scotland

PART 3

HEALTH AND CARE

Law In Force

13 Blood services

(1) A person operating a blood service does not contravene section 29 only by refusing to accept a donation of an individual's blood if—

(a) the refusal is because of an assessment of the risk to the public, or to the individual, based on clinical, epidemiological or other data obtained from a source on which it is reasonable to rely, and

(b) the refusal is reasonable.

(2) A blood service is a service for the collection and distribution of human blood for the purposes of medical services.

(3) “Blood” includes blood components.

Commencement

Sch. 3(3) para. 13(1)-(3): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(3) para. 13-(3): England, Wales, Scotland

Law In Force

14 Health and safety

(1) A service-provider (A) who refuses to provide the service to a pregnant woman does not discriminate against her in contravention of section 29 because she is pregnant if—

(a) A reasonably believes that providing her with the service would, because she is pregnant, create a risk to her health or safety,

(b) A refuses to provide the service to persons with other physical conditions, and

(c) the reason for that refusal is that A reasonably believes that providing the service to such persons would create a risk to their health or safety.

(2) A service-provider (A) who provides, or offers to provide, the service to a pregnant woman on conditions does not discriminate against her in contravention of section 29 because she is pregnant if—

(a) the conditions are intended to remove or reduce a risk to her health or safety,

(b) A reasonably believes that the provision of the service without the conditions would create a risk to her health or safety,

(c) A imposes conditions on the provision of the service to persons with other physical conditions, and

(d) the reason for the imposition of those conditions is that A reasonably believes that the provision of the service to such persons without those conditions would create a risk to their health or safety.

Commencement

Sch. 3(3) para. 14(1)-(2)(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(3) para. 14-(2)(d): England, Wales, Scotland

Law In Force

15 Care within the family

A person (A) does not contravene section 29 only by participating in arrangements under which (whether or not for reward) A takes into A's home, and treats as members of A's family, persons requiring particular care and attention.

Commencement

Sch. 3(3) para. 15: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(3) para. 15: England, Wales, Scotland

PART 4

IMMIGRATION

Law In Force

[15A.— Age

(1) This paragraph applies in relation to age discrimination.

(2) Section 29 does not apply to anything done by a relevant person in the exercise of [relevant functions] [2] .

(3) A relevant person is —

(a) a Minister of the Crown acting personally, or

(b) a person acting in accordance with a relevant authorisation.

(4) A relevant authorisation is a requirement imposed or express authorisation given—

(a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;

(b) with respect to a particular class of case, [by or under anything mentioned in sub-paragraph (5)(a) to (c)] [3] .

(5) ["Relevant functions" means functions exercisable by virtue of] [4] —

(a) the Immigration Acts,

(b) the Special Immigration Appeals Commission Act 1997, [or] [5]

(c) [anything which forms part of retained EU law by virtue of section 2(2)(a), 3 or 4 of the European Union (Withdrawal) Act 2018 and] [6] relates to immigration or asylum [.] [7]

(d) [...] [7]

(6) The reference in sub-paragraph (5)(a) to the Immigration Acts does not include a reference to—

(a) sections 28A to 28K of the Immigration Act 1971 [8] (powers of arrest, entry and search, etc.), or

(b) section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 [9] (power of arrest).

] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.2 (October 1, 2012)

[2] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[4] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(iii)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[5] Word inserted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(iii)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[6] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(iii)(cc) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[7] Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(a)(iii)(dd) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[8] Sections 28A to 28K were inserted by section 128 of the Immigration and Asylum Act 1999 (c.33).

[9] Section 14 has been the subject of amendments which are not relevant to this Order.

Extent

Sch. 3(4) para. 15A(1)-(6)(b): England, Wales, Scotland

Law In Force

16 Disability

(1) This paragraph applies in relation to disability discrimination.

(2) Section 29 does not apply to—

(a) a decision within sub-paragraph (3);

(b) anything done for the purposes of or in pursuance of a decision within that sub-paragraph.

(3) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) to do any of the following on the ground that doing so is necessary for the public good—

(a) to refuse entry clearance;

(b) to refuse leave to enter or remain in the United Kingdom;

(c) to cancel leave to enter or remain in the United Kingdom;

(d) to vary leave to enter or remain in the United Kingdom;

(e) to refuse an application to vary leave to enter or remain in the United Kingdom.

(4) Section 29 does not apply to—

(a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3);

(b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within that sub-paragraph.

Commencement

Sch. 3(4) para. 16(1)-(4)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(4) para. 16-(4)(b): England, Wales, Scotland

Law In Force

17 Nationality and ethnic or national origins

(1) This paragraph applies in relation to race discrimination so far as relating to—

(a) nationality, or

(b) ethnic or national origins.

(2) Section 29 does not apply to anything done by a relevant person in the exercise of **[** relevant functions **]** [1] .

(3) A relevant person is—

(a) a Minister of the Crown acting personally, or

(b) a person acting in accordance with a relevant authorisation.

(4) A relevant authorisation is a requirement imposed or express authorisation given—

(a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;

(b) with respect to a particular class of case, **[** by or under anything mentioned in sub-paragraph (5)(a) to (c) **]** [2] .

(5) **[** "Relevant functions" means functions exercisable by virtue of **]** [3] —

(a) the Immigration Acts,

(b) the Special Immigration Appeals Commission Act 1997, **[** or **]** [4]

(c) **[** anything which forms part of retained EU law by virtue of section 2(2)(a), 3 or 4 of the European Union (Withdrawal) Act 2018 and **]** [5] relates to immigration or asylum **[** . **]** [6]

(d) **[…]** [6]

(6) The reference in sub-paragraph (5)(a) to the Immigration Acts does not include a reference to—

(a) sections 28A to 28K of the Immigration Act 1971 (powers of arrest, entry and search, etc.), or

(b) section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (power of arrest).

Notes

1 Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(iii)(aa) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[4] Word inserted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(iii)(bb) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[5] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(iii)(cc) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[6] Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(7)(b)(iii)(dd) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 3(4) para. 17(1)-(6)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(4) para. 17-(6)(b): England, Wales, Scotland

Law In Force

18 Religion or belief

(1) This paragraph applies in relation to religious or belief-related discrimination.

(2) Section 29 does not apply to a decision within sub-paragraph (3) or anything done for the purposes of or in pursuance of a decision within that sub-paragraph.

(3) A decision is within this sub-paragraph if it is a decision taken in accordance with immigration rules—

(a) to refuse entry clearance or leave to enter the United Kingdom, or to cancel leave to enter or remain in the United Kingdom, on the grounds that the exclusion of the person from the United Kingdom is conducive to the public good, or

(b) to vary leave to enter or remain in the United Kingdom, or to refuse an application to vary leave to enter or remain in the United Kingdom, on the grounds that it is undesirable to permit the person to remain in the United Kingdom.

(4) Section 29 does not apply to a decision within sub-paragraph (5), or anything done for the purposes of or in pursuance of a decision within that sub-paragraph, if the decision is taken on grounds mentioned in sub-paragraph (6).

(5) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) in connection with an application for entry clearance or for leave to enter or remain in the United Kingdom.

(6) The grounds referred to in sub-paragraph (4) are—

(a) the grounds that a person holds an office or post in connection with a religion or belief or provides a service in connection with a religion or belief,

(b) the grounds that a religion or belief is not to be treated in the same way as certain other religions or beliefs, or

(c) the grounds that the exclusion from the United Kingdom of a person to whom paragraph (a) applies is conducive to the public good.

(7) Section 29 does not apply to—

(a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3) or (5);

(b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within either of those sub-paragraphs.

Commencement

Sch. 3(4) para. 18(1)-(7)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(4) para. 18-(7)(b): England, Wales, Scotland

Law In Force

19 Interpretation

A reference to entry clearance, leave to enter or remain or immigration rules is to be construed in accordance with the Immigration Act 1971.

Commencement

Sch. 3(4) para. 19: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(4) para. 19: England, Wales, Scotland

PART 5

[Insurance and other financial services] [1]

Notes

[1] Heading substituted by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.3 (October 1, 2012)

Law In Force

20 Services arranged by employer

(1) Section 29 does not apply to the provision of a relevant financial service if the provision is in pursuance of arrangements made by an employer for the service-provider to provide the service to the employer's employees, and other persons, as a consequence of the employment.

(2) "Relevant financial service" means—

(a) insurance or a related financial service, or

(b) a service relating to membership of or benefits under a personal pension scheme (within the meaning given by section 1 of the Pension Schemes Act 1993).

Commencement

Sch. 3(5) para. 20(1)-(2)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(5) para. 20-(2)(b): England, Wales, Scotland

Law In Force

[20A.— Age

(1) A person (A) does not contravene section 29, so far as relating to age discrimination, by doing anything in connection with the provision of a financial service.

(2) Where A conducts an assessment of risk for the purposes of providing the financial service to another person (B), A may rely on sub-paragraph (1) only if the assessment of risk, so far as it involves a consideration of B's age, is carried out by reference to information which is relevant to the assessment of risk and from a source on which it is reasonable to rely.

(3) In this paragraph, "financial service" includes a service of a banking, credit, insurance, personal pension, investment or payment nature.
] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.3 (October 1, 2012)

Extent

Sch. 3(5) para. 20A(1)-(3): England, Wales, Scotland

Law In Force

21 Disability

(1) It is not a contravention of section 29, so far as relating to disability discrimination, to do anything in connection with insurance business if—

(a) that thing is done by reference to information that is both relevant to the assessment of the risk to be insured and from a source on which it is reasonable to rely, and
(b) it is reasonable to do that thing.

(2) "Insurance business" means business which consists of effecting or carrying out contracts of insurance; and that definition is to be read with—
(a) section 22 of the Financial Services and Markets Act 2000,
(b) any relevant order under that Act, and
(c) Schedule 2 to that Act.

Commencement

Sch. 3(5) para. 21(1)-(2)(c): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(5) para. 21-(2)(c): England, Wales, Scotland

Repealed

22 […][1]

Notes

[1] Repealed by Equality Act 2010 (Amendment) Regulations 2012/2992 reg.2 (December 21, 2012)

Law In Force

23 Existing insurance policies

(1) It is not a contravention of section 29, so far as relating to relevant discrimination, to do anything in connection with insurance business in relation to an existing insurance policy.

(2) "Relevant discrimination" is—
(a) age discrimination;
(b) disability discrimination;
(c) gender reassignment discrimination;
(d) pregnancy and maternity discrimination;
(e) race discrimination;
(f) religious or belief-related discrimination;
(g) sex discrimination;
(h) sexual orientation discrimination.

(3) An existing insurance policy is a policy of insurance entered into before the date on which this paragraph comes into force.

(4) Sub-paragraph (1) does not apply where an existing insurance policy was renewed, or the terms of such a policy were reviewed, on or after the date on which this paragraph comes into force.

(5) A review of an existing insurance policy which was part of, or incidental to, a general reassessment by the service-provider of the pricing structure for a group of policies is not a review for the purposes of sub-paragraph (4).

(6) “Insurance business” has the meaning given in paragraph 21.

Commencement

Sch. 3(5) para. 23(1)-(6): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(5) para. 23-(6): England, Wales, Scotland

PART 6

[Marriage:gender reassignment] [1]

Notes

[1] Heading substituted by Marriage (Same Sex Couples) Act 2013 c. 30 Sch.7(2) para.44 (March 13, 2014: substitution has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

Law In Force

24 Gender reassignment: England and Wales

(1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in reliance on section 5B of the Marriage Act 1949 (solemnisation of marriages involving person of acquired gender).

(2) A person (A) whose consent to the solemnisation of the marriage of a person (B) is required under section 44(1) of the Marriage Act 1949 (solemnisation in registered building) does not contravene section 29, so far as relating to gender reassignment discrimination, by refusing to consent if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

(3) Sub-paragraph (4) applies to a person (A) who may, in a case that comes within the Marriage Act 1949 (other than the case mentioned in sub-paragraph (1)), solemnise marriages according to a form, rite or ceremony of a body of persons who meet for religious worship.

(4) A does not contravene section 29, so far as relating to gender reassignment discrimination, by refusing to solemnise, in accordance with a form, rite or ceremony as described in sub-paragraph (3), the marriage of a person (B) if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

Commencement

Sch. 3(6) para. 24(1)-(4): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(6) para. 24-(4): England, Wales, Scotland

Law In Force

25 Gender reassignment: Scotland

[Sch.3 para.25 has not been repealed but has been moved under a new heading entitled "MARRIAGE AND CIVIL PARTNERSHIP: SCOTLAND" **]** [1]

Notes

[1] Existing Sch.3 para.25 moved under a new heading entitled "Marriage ad Civil Partnership: Scotland" by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(a) (December 16, 2014)

Commencement

Sch. 3(6) para. 25(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(6) para. 25-(4): England, Wales, Scotland

[PART 6ZA

MARRIAGE AND CIVIL PARTNERSHIP: SCOTLAND

] [1]

Notes

[1] Existing Sch.3 para.25 moved under a new heading entitled "Marriage ad Civil Partnership: Scotland" by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(a) (December 16, 2014)

Law In Force

[25 Gender reassignment: Scotland

(1) An approved celebrant (A) does not contravene section 29, so far as relating to gender reassignment discrimination, only by refusing to solemnise the marriage of a person (B) if A

reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

(2) In sub-paragraph (1) “approved celebrant” has the meaning given in section 8(2)(a) of the Marriage (Scotland) Act 1977 (persons who may solemnise marriage).

(3) An approved celebrant (A) does not contravene section 29, so far as relating to gender reassignment discrimination, only by refusing to register the civil partnership of a person (B) if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

(4) In sub-paragraph (3) “approved celebrant” has the meaning given in section 94A(4)(a) of the Civil Partnership Act 2004[2] .
] [1]

Notes

[1] Existing Sch.3 para.25 moved under a new heading entitled "Marriage ad Civil Partnership: Scotland" by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(a) (December 16, 2014)

[2] Section 94A of the Civil Partnership Act was inserted by section 24(13) of the 2014 Act.

Extent

Sch. 3(6ZA) para. 25(1)-(4): England, Wales, Scotland

[PART 6A

MARRIAGE OF SAME SEX COUPLES [AND CIVIL PARTNERSHIP] [2] IN ENGLAND AND WALES

] [1]

Notes

[1] Added by Marriage (Same Sex Couples) Act 2013 c. 30 Pt 1 s.2(6) (March 13, 2014: insertion has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

[2] Words inserted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Pt 3 reg.10(3)(a) (December 2, 2019)

Law In Force

[25A Marriage according to religious rites: no compulsion to solemnize etc

(1) A person does not contravene section 29 only because the person—

(a) does not conduct a relevant marriage,

(b) is not present at, does not carry out, or does not otherwise participate in, a relevant marriage, or

(c) does not consent to a relevant marriage being conducted,

for the reason that the marriage is the marriage of a same sex couple.

(2) Expressions used in this paragraph and in section 2 of the Marriage (Same Sex Couples) Act 2013 have the same meanings in this paragraph as in that section.
] [1]

Notes

[1] Added by Marriage (Same Sex Couples) Act 2013 c. 30 Pt 1 s.2(6) (March 13, 2014: insertion has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

Extent

Sch. 3(6A) para. 25A(1)-(2): England, Wales, Scotland

Law In Force

[25AA.— No compulsion for religious organisations or persons acting on their behalf to act in relation to civil partnerships

(1) A protected person does not contravene section 29 only because the person—

(a) does not allow religious premises to be used as the place at which two people register as civil partners of each other under Part 2 of the Civil Partnership Act 2004 ("the 2004 Act"), or

(b) does not provide, arrange, facilitate or participate in, or is not present at—

(i) an occasion during which two people register as civil partners of each other on religious premises under Part 2 of the 2004 Act, or

(ii) a ceremony or event in England or Wales to mark the formation of a civil partnership,

for the reason that the person does not wish to do things of that sort in relation to civil partnerships generally, or those between two people of the same sex, or those between two people of the opposite sex.

(2) An employer or principal does not contravene section 29 only because the employer or principal is treated under section 109 as doing something that does not, by virtue of sub-paragraph (1), amount to a contravention of section 29 by the employee or agent who in fact does it.

(3) In this paragraph—

"protected person" has the meaning given by section 30ZA(2) of the 2004 Act;

"religious premises" has the meaning given by section 6A(3C) of the 2004 Act[2] .

] [1]

Notes

[1] Added by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Pt 3 reg.10(3)(b) (December 2, 2019)

[2] Section 6A(3C) was added by S.I. 2005/2000.

Extent

Sch. 3(6A) para. 25AA(1)-(3) definition of "religious premises": England, Wales, Scotland

[PART 6B

MARRIAGE OF SAME SEX COUPLES AND CIVIL PARTNERSHIP: SCOTLAND

] [1]

Notes

[1] Added by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(c) (December 16, 2014)

Law In Force

[25B.— Marriage of same sex couples and civil partnership: Scotland

(1) An approved celebrant does not contravene section 29 only by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(2) An approved celebrant does not contravene section 29 only by refusing to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(3) A person does not contravene section 29 only by refusing to participate in a religious or belief ceremony forming part of, or connected with, the solemnising of a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex.

(4) A person does not contravene section 29 only by refusing to participate in a religious or belief ceremony forming part of, or connected with, the registration of a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(5) For the purposes of this paragraph, a person is an approved celebrant for the purposes of both marriage and civil partnership whether the person is an approved celebrant within the meaning of section 8(2)(a) of the Marriage (Scotland) Act 1977[2] or section 94A(4)(a) of the Civil Partnership Act 2004.

(6) In this paragraph—

> "relevant Scottish civil partnership" means a religious or belief civil partnership within the meaning of section 94A(4)(b) of the Civil Partnership Act 2004;
>
> "relevant Scottish marriage" means a religious or belief marriage of two persons of the same sex within the meaning of section 8(2)(a) of the Marriage (Scotland) Act 1977.

] [1]

Notes

[1] Added by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(c) (December 16, 2014)

[2] Section 8(2)(a) of the 1977 Act was amended by section 12(2)(c) of the 2014 Act.

Extent

Sch. 3(6B) para. 25B(1)-(6) definition of "relevant Scottish marriage": England, Wales, Scotland

Law In Force

[25C.— Marriage of same sex couples: Scottish forces marriages

(1) A chaplain does not contravene section 29 only by refusing to solemnise a relevant Scottish forces marriage according to religious rites or usages for the reason that the marriage is the marriage of two persons of the same sex.

(2) In this paragraph—

"chaplain" has the meaning given by paragraph (a) of the definition of "authorised person" in paragraph 12(2) of Schedule 6 to the Marriage (Same Sex Couples) Act 2013;

"forces marriage" has the meaning given by paragraph 12(2) of Schedule 6 to the Marriage (Same Sex Couples) Act 2013;

"relevant Scottish forces marriage" means a forces marriage of two persons of the same sex where Scotland is the relevant part of the United Kingdom within the meaning of paragraph 12 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013.

] [1]

Notes

[1] Added by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(5)(c) (December 16, 2014)

Extent

Sch. 3(6B) para. 25C(1)-(2) definition of "relevant Scottish forces marriage": England, Wales, Scotland

PART 7

[Separate, single and concessionary services, etc] [1]

Notes

[1] Words substituted by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.4(1) (October 1, 2012)

Law In Force

26 Separate services for the sexes

(1) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services for persons of each sex if—

(a) a joint service for persons of both sexes would be less effective, and

(b) the limited provision is a proportionate means of achieving a legitimate aim.

(2) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services differently for persons of each sex if—

(a) a joint service for persons of both sexes would be less effective,

(b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex, and

(c) the limited provision is a proportionate means of achieving a legitimate aim.

(3) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Commencement

Sch. 3(7) para. 26(1)-(3): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(7) para. 26-(3): England, Wales, Scotland

Law In Force

27 Single-sex services

(1) A person does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex if—

(a) any of the conditions in sub-paragraphs (2) to (7) is satisfied, and

(b) the limited provision is a proportionate means of achieving a legitimate aim.

(2) The condition is that only persons of that sex have need of the service.

(3) The condition is that—

(a) the service is also provided jointly for persons of both sexes, and

(b) the service would be insufficiently effective were it only to be provided jointly.

(4) The condition is that—

(a) a joint service for persons of both sexes would be less effective, and

(b) the extent to which the service is required by persons of each sex makes it not reasonably practicable to provide separate services.

(5) The condition is that the service is provided at a place which is, or is part of—

(a) a hospital, or

(b) another establishment for persons requiring special care, supervision or attention.

(6) The condition is that—

(a) the service is provided for, or is likely to be used by, two or more persons at the same time, and

(b) the circumstances are such that a person of one sex might reasonably object to the presence of a person of the opposite sex.

(7) The condition is that—

(a) there is likely to be physical contact between a person (A) to whom the service is provided and another person (B), and

(b) B might reasonably object if A were not of the same sex as B.

(8) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Commencement

Sch. 3(7) para. 27(1)-(8): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(7) para. 27-(8): England, Wales, Scotland

Law In Force

28 Gender reassignment

(1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in relation to a matter within sub-paragraph (2) if the conduct in question is a proportionate means of achieving a legitimate aim.

(2) The matters are—

(a) the provision of separate services for persons of each sex;

(b) the provision of separate services differently for persons of each sex;

(c) the provision of a service only to persons of one sex.

Commencement

Sch. 3(7) para. 28(1)-(2)(c): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(7) para. 28-(2)(c): England, Wales, Scotland

Law In Force

29 Services relating to religion

(1) A minister does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex or separate services for persons of each sex, if—

(a) the service is provided for the purposes of an organised religion,

(b) it is provided at a place which is (permanently or for the time being) occupied or used for those purposes, and

(c) the limited provision of the service is necessary in order to comply with the doctrines of the religion or is for the purpose of avoiding conflict with the strongly held religious convictions of a significant number of the religion's followers.

(2) The reference to a minister is a reference to a minister of religion, or other person, who—

(a) performs functions in connection with the religion, and

(b) holds an office or appointment in, or is accredited, approved or recognised for purposes of, a relevant organisation in relation to the religion.

(3) An organisation is a relevant organisation in relation to a religion if its purpose is—

(a) to practise the religion,

(b) to advance the religion,

(c) to teach the practice or principles of the religion,

(d) to enable persons of the religion to receive benefits, or to engage in activities, within the framework of that religion, or

(e) to foster or maintain good relations between persons of different religions.

(4) But an organisation is not a relevant organisation in relation to a religion if its sole or main purpose is commercial.

Commencement

Sch. 3(7) para. 29(1)-(4): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(7) para. 29-(4): England, Wales, Scotland

Law In Force

30 Services generally provided only for persons who share a protected characteristic

If a service is generally provided only for persons who share a protected characteristic, a person (A) who normally provides the service for persons who share that characteristic does not contravene section 29(1) or (2)—

(a) by insisting on providing the service in the way A normally provides it, or

(b) if A reasonably thinks it is impracticable to provide the service to persons who do not share that characteristic, by refusing to provide the service.

Commencement

Sch. 3(7) para. 30(a)-(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(7) para. 30-(b): England, Wales, Scotland

Law In Force

[30A.— Concessions

(1) A person does not contravene section 29, so far as relating to age discrimination, by giving a concession in respect of a service to persons of a particular age group.

(2) The reference to a concession in respect of a service is a reference to a benefit, right or privilege having the effect that the manner in which the service is provided is, or the terms on which it is provided are, more favourable than the manner in which, or the terms on which, it is usually provided to the public (or, where it is provided to a section of the public, that section).
] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.4(1) (October 1, 2012)

Extent

Sch. 3(7) para. 30A(1)-(2): England, Wales, Scotland

Law In Force

[30B.— Age related holidays

(1) A person (P) does not contravene section 29, so far as relating to age discrimination, by providing a relevant holiday service to persons of a particular age group.

(2) In sub-paragraph (1) "relevant holiday service" means a service—

(a) which involves the provision of at least two of the following together for a single price—

(i) travel;

(ii) accommodation;

(iii) access to activities or services not ancillary to travel or accommodation which form a significant part of the service or its cost;

(b) the provision of which is for a period of more than 24 hours or includes the provision of overnight accommodation;

(c) which P provides only to persons of the age group in question; and

(d) an essential feature of which is the bringing together of persons of that age group with a view to facilitating their enjoyment of facilities or services designed with particular regard to persons of that age group.

(3) P may not rely on sub-paragraph (1) unless, before providing a person with a relevant holiday service, P provides the person with a written statement that the service is provided only to persons of the age group in question.

(4) For the purpose of sub-paragraph (2)(a)(i), "travel" includes an option for an individual to make alternative travel arrangements to those included in the relevant holiday service as offered by P.
] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.5 (October 1, 2012)

Extent

Sch. 3(7) para. 30B(1)-(4): England, Wales, Scotland

Law In Force

[30C.— Age restricted services

(1) This paragraph applies where a person (P)—

(a) provides a service the provision of which is prohibited by or under an enactment to persons under the age specified in or under the enactment ("the statutory age"), and

(b) displays on the premises on which the service is provided an age warning in relation to the provision of the service.

(2) An age warning in relation to the provision of a service is a statement to the effect that the service will not be provided to a person who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the statement, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(3) P does not contravene section 29, so far as relating to age discrimination, by not providing the service to a person, who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the age warning in relation to the provision of the service, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(4) In this paragraph—

(a) a reference to the provision of a service includes a reference to provision of access to the service, and

(b) "satisfactory identification", in relation to a person, means a valid document which—

(i) in the case of licensed premises where an age condition applies, meets that condition, and

(ii) in any other case includes a photograph of the person and establishes that the person has attained the statutory age in relation to the provision of a service;

"licensed premises" means premises in respect of which a relevant premises licence within the meaning of section 19A of the Licensing Act 2003[2] (mandatory conditions where alcohol sold) has effect; and

"age condition" means a condition specified in an order under subsection (1) of section 19A of that Act requiring the age of certain persons to be verified in the manner specified in the condition before they are served alcohol in premises where the condition applies.

] [1]

Notes

1 Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.6 (October 1, 2012)

2 Section 19A was inserted by section 32 of and paragraph 2 in Part 1 of Schedule 4 to the Policing and Crime Act 2009 (c.26). The Licensing Act 2003 (Mandatory Licensing Conditions) Order (S.I. 2010/860) specifies mandatory conditions including an age condition.

Extent

Sch. 3(7) para. 30C(1)-(4)(b)(ii) definition of "age condition": England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Scotland | Wales

Law In Force

England and Scotland

[30D. Residential mobile homes

(1) A person (A) who is the owner of a protected site does not contravene section 29, so far as relating to age discrimination, by—

(a) entering into a mobile home agreement with a person (B) that entitles only persons who have attained a particular age to station and occupy a mobile home on land forming part of the site, or

(b) refusing to permit assignment by B of a mobile home agreement to any person other than a person who has attained a particular age.

(2) A does not contravene section 29, so far as relating to age discrimination, by imposing a requirement in park rules that mobile homes stationed on land forming part of the site and occupied under mobile home agreements may be occupied only by persons who have attained a particular age.

(3) A does not contravene section 29, so far as relating to age discrimination, by—

(a) imposing in or under a mobile home rental agreement with a person (C) a requirement that the mobile home to which the agreement relates may be occupied only by persons who have attained a particular age, or

(b) refusing to permit assignment by C of a mobile home rental agreement to any person other than a person who has attained a particular age.

(4) But A may not rely on sub-paragraph (1) or (3) unless, before doing something mentioned in that sub-paragraph, A provides B or C, as the case may be, with a written statement to the effect that the mobile home in question may be occupied only by persons who have attained the age in question.

(5) In this paragraph,

"mobile home agreement" means an agreement to which the Mobile Homes Act 1983[2] applies; and "owner", "protected site" and "mobile home" have the same meaning as in that Act;

"park rules" means rules applying to residents of mobile homes on the protected site and required to be observed by a term in the mobile home agreement or the mobile home rental agreement as the case may be;

"mobile home rental agreement" means an agreement (other than an arrangement to occupy a mobile home for the purposes of a holiday) under which a person ("the occupier") is entitled to occupy a mobile home on the protected site as the occupier's residence whether for a specified period or for successive periods of a specified duration subject to payment of money and the performance of other obligations.

] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.7 (October 1, 2012)

[2] Section 1 (particulars of agreements) was amended by section 206(1) of the Housing Act 2004 (c.34), section 167 of the Housing (Scotland) Act 2006 (asp1) and the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order (S.I. 2011/1005). Section 2 and Schedule 1 were amended by sections 206(2)(a), 207, 265(1) and 266 of and paragraph 19 of Schedule 5 and Schedule 16 to the Housing Act 2004, sections 168 and 169 of the Housing (Scotland) Act 2006 and section 60 of and paragraph 2 of Schedule 3 to the Statistics and Registration Service Act 2007 (c.18) and by the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1775), the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I. 2007/3151), the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 (S.I. 2011/1003) and by S.I. 2011/1005. There are other amendments not relevant to this Order.

Wales

[30D. Residential mobile homes

(1) A person (A) who is the owner of a protected site does not contravene section 29, so far as relating to age discrimination, by—

(a) entering into a mobile home agreement with a person (B) that entitles only persons who have attained a particular age to station and occupy a mobile home on land forming part of the site, or

(b) refusing to permit assignment by B of a mobile home agreement to any person other than a person who has attained a particular age.

(2) A does not contravene section 29, so far as relating to age discrimination, by imposing a requirement in park rules that mobile homes stationed on land forming part of the site and occupied under mobile home agreements may be occupied only by persons who have attained a particular age.

(3) A does not contravene section 29, so far as relating to age discrimination, by—

(a) imposing in or under a mobile home rental agreement with a person (C) a requirement that the mobile home to which the agreement relates may be occupied only by persons who have attained a particular age, or

(b) refusing to permit assignment by C of a mobile home rental agreement to any person other than a person who has attained a particular age.

(4) But A may not rely on sub-paragraph (1) or (3) unless, before doing something mentioned in that sub-paragraph, A provides B or C, as the case may be, with a written statement to the effect that the mobile home in question may be occupied only by persons who have attained the age in question.

(5) In this paragraph,

"mobile home agreement" means an agreement to which the Mobile Homes Act 1983[2] or Part 4 of the Mobile Homes (Wales) Act 2013 applies; and "owner", "protected site" and "mobile home" have the same meaning as in that Act or that Part of that Act;

"park rules" means rules applying to residents of mobile homes on the protected site and required to be observed by a term in the mobile home agreement or the mobile home rental agreement as the case may be;

"mobile home rental agreement" means an agreement (other than an arrangement to occupy a mobile home for the purposes of a holiday) under which a person ("the occupier") is entitled to occupy a mobile home on the protected site as the occupier's residence whether for a specified period or for successive periods of a specified duration subject to payment of money and the performance of other obligations.

] [1]

Notes

[1] Amended by Mobile Homes (Wales) Act 2013 anaw. 6 Sch.4 para.11 (October 1, 2014: substitution has effect on October 1, 2014 as SI 2014/11 subject to savings and transitional provisions specifed in 2013 anaw 6 Sch.5 and SI 2014/11 art.4)

[2] Section 1 (particulars of agreements) was amended by section 206(1) of the Housing Act 2004 (c.34), section 167 of the Housing (Scotland) Act 2006 (asp1) and the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order (S.I. 2011/1005). Section 2 and Schedule 1 were amended by sections 206(2)(a), 207, 265(1) and 266 of and paragraph 19 of Schedule 5 and Schedule 16 to the Housing Act 2004, sections 168 and 169 of the Housing (Scotland) Act 2006 and section 60 of and paragraph 2 of Schedule 3 to the Statistics and Registration Service Act 2007 (c.18) and by the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1775), the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I. 2007/3151), the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 (S.I. 2011/1003) and by S.I. 2011/1005. There are other amendments not relevant to this Order.

Extent

Sch. 3(7) para. 30D(1)-(5) definition of "mobile home rental agreement": England, Wales, Scotland

PART 8

TELEVISION, RADIO AND ON-LINE BROADCASTING AND DISTRIBUTION

Law In Force

31

(1) Section 29 does not apply to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003).

(2) Sub-paragraph (1) does not apply to the provision of an electronic communications network, electronic communications service or associated facility (each of which has the same meaning as in that Act).

Commencement

Sch. 3(8) para. 31(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(8) para. 31-(2): England, Wales, Scotland

PART 9

TRANSPORT

Law In Force

32 Application to disability

This Part of this Schedule applies in relation to disability discrimination.

Commencement

Sch. 3(9) para. 32: October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(9) para. 32: England, Wales, Scotland

Law In Force

33 Transport by air

(1) Section 29 does not apply to—

(a) transporting people by air;

(b) a service provided on a vehicle for transporting people by air.

(2) Section 29 does not apply to anything governed by Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

Commencement

Sch. 3(9) para. 33(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(9) para. 33-(2): England, Wales, Scotland

Law In Force

34 [Transport by land: road] [1]

(1) Section 29 does not apply to transporting people by land, unless the vehicle concerned is—

(a) a hire-vehicle designed and constructed for the carriage of passengers and comprising no more than 8 seats in addition to the driver's seat,

(b) a hire-vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver's seat and having a maximum mass not exceeding 5 tonnes,

(c) a hire-vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes,

(d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998 (or under a provision of a local Act corresponding to either of those provisions),

(e) a private hire car (within the meaning of section 23 of the Civic Government (Scotland) Act 1982),

(f) a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981),

(g) a vehicle built or adapted to carry passengers on a railway or tramway (within the meaning, in each case, of the Transport and Works Act 1992),

(h) a taxi,

(i) a vehicle deployed to transport the driver and passengers of a vehicle that has broken down or is involved in an accident, or

(j) a vehicle deployed on a system using a mode of guided transport (within the meaning of the Transport and Works Act 1992).

[(1A) Sections 20 to 22 and section 29 do not apply to anything that is governed by Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004. **]** [2]

(2) Paragraph 4 of Schedule 2 applies for the purposes of this paragraph as it applies for the purposes of paragraph 3 of that Schedule.

Notes

[1] Title substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.9 (October 1, 2010)

[2] Added by Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013/1865 reg.13(4) (August 19, 2013)

Commencement

Sch. 3(9) para. 34(1)-(2): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(9) para. 34-(2): England, Wales, Scotland

Law In Force

[34A. Transport by land: rail

Section 29 does not apply to anything governed by Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.9 (October 1, 2010)

Extent

Sch. 3(9) para. 34A: England, Wales, Scotland

PART 10

SUPPLEMENTARY

Law In Force

35 Power to amend

(1) A Minister of the Crown may by order amend this Schedule—

(a) so as to add, vary or omit an exception to section 29, so far as relating to disability, religion or belief or sexual orientation;

(b) so as to add, vary or omit an exception to section 29(6), so far as relating to gender reassignment, pregnancy and maternity, race or sex.

(2) But provision by virtue of sub-paragraph (1) may not amend this Schedule—

(a) so as to omit an exception in paragraph 1, 2 or 3;

(b) so as to reduce the extent to which an exception in paragraph 1, 2 or 3 applies.

(3) For the purposes of an order under sub-paragraph (1)(a), so far as relating to disability, which makes provision in relation to transport by air, it does not matter whether the transport is within or outside the United Kingdom.

(4) Before making an order under this paragraph the Minister must consult the Commission.

(5) Nothing in this paragraph affects the application of any other provision of this Act to conduct outside England and Wales or Scotland.

Commencement

Sch. 3(10) para. 35(1)-(5): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(3)(a); October 1, 2012 otherwise (SI 2010/2317 art. 2(3); SI 2012/1569 art. 3(d))

Extent

Sch. 3(10) para. 35-(5): England, Wales, Scotland

SCHEDULE 4

PREMISES: REASONABLE ADJUSTMENTS

Section 38

Law In Force

1 Preliminary

This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

Commencement

Sch. 4 para. 1: October 1, 2010 (SI 2010/2317 art. 2(4)(e)(i))

Extent

Sch. 4 para. 1: England, Wales, Scotland

Law In Force

2 The duty in relation to let premises

(1) This paragraph applies where A is a controller of let premises.

(2) A must comply with the first and third requirements.

(3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to a term of the letting.

(4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—

(a) is a tenant of the premises, or

(b) is otherwise entitled to occupy them.

(5) In relation to each requirement, the relevant matters are—

(a) the enjoyment of the premises;

(b) the use of a benefit or facility, entitlement to which arises as a result of the letting.

(6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the tenant or a person entitled to occupy the premises to take steps to avoid the disadvantage or provide the auxiliary aid.

(7) If a term of the letting that prohibits the tenant from making alterations puts the disabled person at the disadvantage referred to in the first requirement, A is required to change the term only so far as is necessary to enable the tenant to make alterations to the let premises so as to avoid the disadvantage.

(8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature.

(9) For the purposes of this paragraph, physical features do not include furniture, furnishings, materials, equipment or other chattels in or on the premises; and none of the following is an alteration of a physical feature—

(a) the replacement or provision of a sign or notice;
(b) the replacement of a tap or door handle;
(c) the replacement, provision or adaptation of a door bell or door entry system;
(d) changes to the colour of a wall, door or any other surface.

(10) The terms of a letting include the terms of an agreement relating to it.

Commencement

Sch. 4 para. 2(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(4)(e)(i))

Extent

Sch. 4 para. 2(1)-(10): England, Wales, Scotland

Law In Force

3 The duty in relation to premises to let

(1) This paragraph applies where A is a controller of premises to let.

(2) A must comply with the first and third requirements.

(3) For the purposes of this paragraph, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who is considering taking a letting of the premises.

(4) In relation to each requirement, the relevant matter is becoming a tenant of the premises.

(5) Sub-paragraph (2) applies only if A receives a request by or on behalf of a disabled person within sub-paragraph (3) for A to take steps to avoid the disadvantage or provide the auxiliary aid.

(6) Nothing in this paragraph requires A to take a step which would involve the removal or alteration of a physical feature.

(7) Sub-paragraph (9) of paragraph 2 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Commencement

Sch. 4 para. 3(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(4)(e)(i))

Extent

Sch. 4 para. 3(1)-(7): England, Wales, Scotland

Law In Force

4 The duty in relation to commonhold units

(1) This paragraph applies where A is a commonhold association; and the reference to a commonhold association is a reference to the association in its capacity as the person who manages a commonhold unit.

(2) A must comply with the first and third requirements.

(3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to—

(a) a term of the commonhold community statement, or

(b) any other term applicable by virtue of the transfer of the unit to the unit-holder.

(4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—

(a) is the unit-holder, or

(b) is otherwise entitled to occupy the unit.

(5) In relation to each requirement, the relevant matters are—

(a) the enjoyment of the unit;

(b) the use of a benefit or facility, entitlement to which arises as a result of a term within sub-paragraph (3)(a) or (b).

(6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the unit-holder or a person entitled to occupy the unit to take steps to avoid the disadvantage or provide the auxiliary aid.

(7) If a term within sub-paragraph (3)(a) or (b) that prohibits the unit-holder from making alterations puts the disabled person at the disadvantage referred to in the first requirement, A is required to change the term only so far as is necessary to enable the unit-holder to make alterations to the unit so as to avoid the disadvantage.

(8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature; and sub-paragraph (9) of paragraph 2 applies in relation to a commonhold unit as it applies in relation to let premises.

Commencement

Sch. 4 para. 4(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(4)(e)(i))

Extent

Sch. 4 para. 4(1)-(8): England, Wales, Scotland

Not Yet In Force

5 The duty in relation to common parts

(1) This paragraph applies where A is a responsible person in relation to common parts.

(2) A must comply with the second requirement.

(3) For the purposes of this paragraph, the reference in section 20(4) to a physical feature is a reference to a physical feature of the common parts.

(4) For those purposes, the reference in section 20(4) to a disabled person is a reference to a disabled person who—

(a) is a tenant of the premises,

(b) is a unit-holder, or

(c) is otherwise entitled to occupy the premises,

and uses or intends to use the premises as the person's only or main home.

(5) In relation to the second requirement, the relevant matter is the use of the common parts.

(6) Sub-paragraph (2) applies only if—

(a) A receives a request by or on behalf of a disabled person within sub-paragraph (4) for A to take steps to avoid the disadvantage, and

(b) the steps requested are likely to avoid or reduce the disadvantage.

Commencement

Sch. 4 para. 5(1)-(6)(b): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Sch. 4 para. 5(1)-(6)(b): England, Wales, Scotland

Not Yet In Force

6 Consultation on adjustments relating to common parts

(1) In deciding whether it is reasonable to take a step for the purposes of paragraph 5, A must consult all persons A thinks would be affected by the step.

(2) The consultation must be carried out within a reasonable period of the request being made.

(3) A is not required to have regard to a view expressed against taking a step in so far as A reasonably believes that the view is expressed because of the disabled person's disability.

(4) Nothing in this paragraph affects anything a commonhold association is required to do pursuant to Part 1 of the Commonhold and Leasehold Reform Act 2002.

Commencement

Sch. 4 para. 6(1)-(4): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Sch. 4 para. 6(1)-(4): England, Wales, Scotland

Not Yet In Force

7 Agreement on adjustments relating to common parts

(1) If A decides that it is reasonable to take a step for the purposes of paragraph 5, A and the disabled person must agree in writing the rights and responsibilities of each of them in relation to the step.

(2) An agreement under this paragraph must, in particular, make provision as to the responsibilities of the parties in relation to—

(a) the costs of any work to be undertaken;

(b) other costs arising from the work;

(c) the restoration of the common parts to their former condition if the relevant disabled person stops living in the premises.

(3) It is always reasonable before the agreement is made for A to insist that the agreement should require the disabled person to pay—

(a) the costs referred to in paragraphs (a) and (b) of sub-paragraph (2), and

(b) the costs of the restoration referred to in paragraph (c) of that sub-paragraph.

(4) If an agreement under this paragraph is made, A's obligations under the agreement become part of A's interest in the common parts and pass on subsequent disposals accordingly.

(5) Regulations may require a party to an agreement under this paragraph to provide, in prescribed circumstances, prescribed information about the agreement to persons of a prescribed description.

(6) The regulations may require the information to be provided in a prescribed form.

(7) Regulations may make provision as to circumstances in which an agreement under this paragraph is to cease to have effect, in so far as the agreement does not itself make provision for termination.

Commencement

Sch. 4 para. 7(1)-(7): Date to be appointed (not yet in force) (2010 c. 15 Pt 16 s. 216(3))

Extent

Sch. 4 para. 7(1)-(7): England, Wales, Scotland

Partially In Force

8 Victimisation

(1) This paragraph applies where the relevant disabled person comes within paragraph 2(4)(b), 4(4)(b) or 5(4)(c).

(2) A must not, because of costs incurred in connection with taking steps to comply with a requirement imposed for the purposes of paragraph 2, 4 or 5, subject to a detriment—

(a) a tenant of the premises, or

(b) the unit-holder.

Commencement

Sch. 4 para. 8(1)-(2)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(4)(e)(ii); not yet in force otherwise (SI 2010/2317 art. 2(4)(e)(ii))

Extent

Sch. 4 para. 8(1)-(2)(b): England, Wales, Scotland

Law In Force

9 Regulations

(1) This paragraph applies for the purposes of section 36 and this Schedule.

(2) Regulations may make provision as to—

(a) circumstances in which premises are to be treated as let, or as not let, to a person;

(b) circumstances in which premises are to be treated as being, or as not being, to let;

(c) who is to be treated as being, or as not being, a person entitled to occupy premises otherwise than as tenant or unit-holder;

(d) who is to be treated as being, or as not being, a person by whom premises are let;

(e) who is to be treated as having, or as not having, premises to let;

(f) who is to be treated as being, or as not being, a manager of premises.

(3) Provision made by virtue of this paragraph may amend this Schedule.

Commencement

Sch. 4 para. 9(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(4)(e)(iii))

Extent

Sch. 4 para. 9-(3): England, Wales, Scotland

SCHEDULE 5

PREMISES: EXCEPTIONS

Section 38

Owner-occupier

Law In Force

1

(1) This paragraph applies to the private disposal of premises by an owner-occupier.

(2) A disposal is a private disposal only if the owner-occupier does not—
(a) use the services of an estate agent for the purpose of disposing of the premises, or
(b) publish (or cause to be published) an advertisement in connection with their disposal.

(3) Section 33(1) applies only in so far as it relates to race.

(4) Section 34(1) does not apply in so far as it relates to—
(a) religion or belief, or
(b) sexual orientation.

(5) In this paragraph—
"estate agent" means a person who, by way of profession or trade, provides services for the purpose of—
(a) finding premises for persons seeking them, or
(b) assisting in the disposal of premises;
"owner-occupier" means a person who—
(a) owns an estate or interest in premises, and
(b) occupies the whole of them.

Commencement

Sch. 5 para. 1(1)-(5) definition of "owner occupier" (b): October 1, 2010 (SI 2010/2317 art. 2(4)(f))

Extent

Sch. 5 para. 1(1)-(5) definition of "owner occupier" (b): England, Wales, Scotland

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Law In Force

2

(1) Section 36(1)(a) does not apply if—
(a) the premises are, or have been, the only or main home of a person by whom they are let, and

(b) since entering into the letting, neither that person nor any other by whom they are let has used a manager for managing the premises.

(2) A manager is a person who, by profession or trade, manages let premises.

(3) Section 36(1)(b) does not apply if—

(a) the premises are, or have been, the only or main home of a person who has them to let, and

(b) neither that person nor any other who has the premises to let uses the services of an estate agent for letting the premises.

(4) "Estate agent" has the meaning given in paragraph 1.

Commencement

Sch. 5 para. 2(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(4)(f))

Extent

Sch. 5 para. 2(1)-(4): England, Wales, Scotland

Small premises

Law In Force

3

(1) This paragraph applies to anything done by a person in relation to the disposal, occupation or management of part of small premises if—

(a) the person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and

(b) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (a).

(2) Sections 33(1), 34(1) and 35(1) apply only in so far as they relate to race.

(3) Premises are small if—

(a) the only other persons occupying the accommodation occupied by the resident mentioned in sub-paragraph (1)(a) are members of the same household,

(b) the premises also include accommodation for at least one other household,

(c) the accommodation for each of those other households is let, or available for letting, on a separate tenancy or similar agreement, and

(d) the premises are not normally sufficient to accommodate more than two other households.

(4) Premises are also small if they are not normally sufficient to provide residential accommodation for more than six persons (in addition to the resident mentioned in sub-paragraph (1)(a) and members of the same household).

(5) In this paragraph, "relative" means—

(a) spouse or civil partner,
(b) unmarried partner,
(c) parent or grandparent,
(d) child or grandchild (whether or not legitimate),
(e) the spouse, civil partner or unmarried partner of a child or grandchild,
(f) brother or sister (whether of full blood or half-blood), or
(g) a relative within paragraph (c), (d), (e) or (f) whose relationship arises as a result of marriage or civil partnership.

(6) In sub-paragraph (5), a reference to an unmarried partner is a reference to the other member of a couple consisting **[** of two people who are not married to, or civil partners of, each other but are living together as if they were a married couple or civil partners. **]** [1]

(a)-(b) **[…]**[1]

Notes

[1] Words substituted for Sch.5 para.3(6)(a) and (b) by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Sch.3(1) para.32(4) (December 2, 2019)

Commencement

Sch. 5 para. 3(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(4)(f))

Extent

Sch. 5 para. 3(1)-(6)(b): England, Wales, Scotland

Law In Force

4

(1) Section 36(1) does not apply if—
(a) the premises in question are small premises,
(b) the relevant person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and
(c) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (b).

(2) The relevant person is the person who, for the purposes of section 36(1), is—
(a) the controller of the premises, or
(b) the responsible person in relation to the common parts to which the premises relate.

(3) "Small premises" and "relative" have the same meaning as in paragraph 3.

Commencement

Sch. 5 para. 4(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(4)(f))

Extent

Sch. 5 para. 4(1)-(3): England, Wales, Scotland

Law In Force

5
A Minister of the Crown may by order amend paragraph 3 or 4.

Commencement

Sch. 5 para. 5: October 1, 2010 (SI 2010/2317 art. 2(4)(f))

Extent

Sch. 5 para. 5: England, Wales, Scotland

SCHEDULE 6

OFFICE-HOLDERS: EXCLUDED OFFICES

Section 52

Law In Force

1 Work to which other provisions apply

(1) An office or post is not a personal or public office in so far as one or more of the provisions mentioned in sub-paragraph (2)—

(a) applies in relation to the office or post, or

(b) would apply in relation to the office or post but for the operation of some other provision of this Act.

(2) Those provisions are—

(a) section 39 (employment);

(b) section 41 (contract work);

(c) section 44 (partnerships).

(d) section 45 (LLPs);

(e) section 47 (barristers);

(f) section 48 (advocates);

(g) section 55 (employment services) so far as applying to the provision of work experience within section 56(2)(a) or arrangements within section 56(2)(c) for such provision.

Commencement

Sch. 6 para. 1(1)-(2)(g): October 1, 2010 (SI 2010/2317 art. 2(5)(f))

Extent

Sch. 6 para. 1(1)-(2)(g): England, Wales, Scotland

Law In Force

2 Political offices

(1) An office or post is not a personal or public office if it is a political office.

(2) A political office is an office or post set out in the second column of the following Table—

Political setting	Office or post
Houses of Parliament	An office of the House of Commons held by a member of that House
	An office of the House of Lords held by a member of that House
	A Ministerial office within the meaning of section 2 of the House of Commons Disqualification Act 1975
	The office of the Leader of the Opposition within the meaning of the Ministerial and other Salaries Act 1975
	The office of the Chief Opposition Whip, or of an Assistant Opposition Whip, within the meaning of that Act
Scottish Parliament	An office of the Scottish Parliament held by a member of the Parliament
	The office of a member of the Scottish Executive
	The office of a junior Scottish Minister
National Assembly for Wales	An office of the National Assembly for Wales held by a member of the Assembly
	The office of a member of the **[** Welsh Government **]** [1]
Local government in England (outside London)	An office of a county council, district council or parish council in England held by a member of the council
	An office of the Council of the Isles of Scilly held by a member of the Council
Local government in London	An office of the Greater London Authority held by the Mayor of London or a member of the London Assembly
	An office of a London borough council held by a member of the council
	An office of the Common Council of the City of London held by a member of the Council
Local government in Wales	An office of a county council, county borough council or community council in Wales held by a member of the council
Local government in Scotland	An office of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 held by a member of the council
	An office of a council established under section 51 of the Local Government (Scotland) Act 1973 held by a member of the council
Political parties	An office of a registered political party

(3) The reference to a registered political party is a reference to a party registered in the Great Britain register under Part 2 of the Political Parties, Elections and Referendums Act 2000.

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Commencement

Sch. 6 para. 2(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(f))

Extent

Sch. 6 para. 2(1)-(3): England, Wales, Scotland

Law In Force

3 Honours etc.

A life peerage (within the meaning of the Life Peerages Act 1958), or any other dignity or honour conferred by the Crown, is not a personal or public office.

Commencement

Sch. 6 para. 3: October 1, 2010 (SI 2010/2317 art. 2(5)(f))

Extent

Sch. 6 para. 3: England, Wales, Scotland

Law In Force

[Bishops

4

The office of diocesan or suffragan bishop is not a public office.

] [1]

Notes

[1] Added by Bishops and Priests (Consecration and Ordination of Women) Measure 2014 No. 2 s.2 (November 17, 2014 as jointly appointed by the Archbishops of Canterbury and York in an instrument dated November 17, 2014)

Extent

Sch. 6 para. 4: England, Wales, Scotland

SCHEDULE 7

EQUALITY OF TERMS: EXCEPTIONS

Section 80

PART 1

TERMS OF WORK

Law In Force

1 Compliance with laws regulating employment of women, etc.

Neither a sex equality clause nor a maternity equality clause has effect in relation to terms of work affected by compliance with laws regulating—

(a) the employment of women;

(b) the appointment of women to personal or public offices.

Commencement

Sch. 7(1) para. 1(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(1) para. 1(a)-(b): England, Wales, Scotland

Law In Force

2 Pregnancy, etc.

A sex equality clause does not have effect in relation to terms of work affording special treatment to women in connection with pregnancy or childbirth.

Commencement

Sch. 7(1) para. 2: October 1, 2010 (SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(1) para. 2: England, Wales, Scotland

PART 2

OCCUPATIONAL PENSION SCHEMES

Law In Force

3 Preliminary

(1) A sex equality rule does not have effect in relation to a difference as between men and women in the effect of a relevant matter if the difference is permitted by or by virtue of this Part of this Schedule.

(2) “Relevant matter” has the meaning given in section 67.

Commencement

Sch. 7(2) para. 3(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(2) para. 3(1)-(2): England, Wales, Scotland

Law In Force

4 State retirement pensions

(1) This paragraph applies where a man and a woman are eligible, in such circumstances as may be prescribed, to receive different amounts by way of pension.

(2) The difference is permitted if, in prescribed circumstances, it is attributable only to differences between men and women in the retirement benefits to which, in prescribed circumstances, the man and woman are or would be entitled.

(3) “Retirement benefits” are benefits under sections 43 to 55 of the Social Security Contributions and Benefits Act 1992 (state retirement pensions) **[** or sections 2 to 12 of the Pensions Act 2014 (state pension) **]** [1] .

Notes

[1] Words inserted by Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016/224 art.8 (April 6, 2016)

Commencement

Sch. 7(2) para. 4(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(2) para. 4-(3): England, Wales, Scotland

Law In Force

5 Actuarial factors

(1) A difference as between men and women is permitted if it consists of applying to the calculation of the employer's contributions to an occupational pension scheme actuarial factors which—

(a) differ for men and women, and

(b) are of such description as may be prescribed.

(2) A difference as between men and women is permitted if it consists of applying to the determination of benefits of such description as may be prescribed actuarial factors which differ for men and women.

Commencement

Sch. 7(2) para. 5(1)-(2): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(2) para. 5-(2): England, Wales, Scotland

Law In Force

6 Power to amend

(1) Regulations may amend this Part of this Schedule so as to add, vary or omit provision about cases where a difference as between men and women in the effect of a relevant matter is permitted.

(2) The regulations may make provision about pensionable service before the date on which they come into force (but not about pensionable service before 17 May 1990).

Commencement

Sch. 7(2) para. 6(1)-(2): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(g))

Extent

Sch. 7(2) para. 6-(2): England, Wales, Scotland

SCHEDULE 8

WORK: REASONABLE ADJUSTMENTS

Section 83

PART 1

INTRODUCTORY

Preliminary

Law In Force

1

This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part of this Act.

Commencement

Sch. 8(1) para. 1: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(1) para. 1: England, Wales, Scotland

The duty

Law In Force

2

(1) A must comply with the first, second and third requirements.

(2) For the purposes of this paragraph—

(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;

(b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;

(c) the reference in section 20(3), (4) or (5) to a disabled person is to an interested disabled person.

(3) In relation to the first and third requirements, a relevant matter is any matter specified in the first column of the applicable table in Part 2 of this Schedule.

(4) In relation to the second requirement, a relevant matter is—

(a) a matter specified in the second entry of the first column of the applicable table in Part 2 of this Schedule, or

(b) where there is only one entry in a column, a matter specified there.

(5) If two or more persons are subject to a duty to make reasonable adjustments in relation to the same interested disabled person, each of them must comply with the duty so far as it is reasonable for each of them to do so.

Commencement

Sch. 8(1) para. 2(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(1) para. 2(1)-(5): England, Wales, Scotland

Law In Force

3

(1) This paragraph applies if a duty to make reasonable adjustments is imposed on A by section 55 (except where the employment service which A provides is the provision of vocational training within the meaning given by section 56(6)(b)).

(2) The reference in section 20(3), (4) and (5) to a disabled person is a reference to an interested disabled person.

(3) In relation to each requirement, the relevant matter is the employment service which A provides.

(4) Sub-paragraph (5) of paragraph 2 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Commencement

Sch. 8(1) para. 3(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(1) para. 3(1)-(4): England, Wales, Scotland

PART 2

INTERESTED DISABLED PERSON

Preliminary

Law In Force

4

An interested disabled person is a disabled person who, in relation to a relevant matter, is of a description specified in the second column of the applicable table in this Part of this Schedule.

Commencement

Sch. 8(2) para. 4: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 4: England, Wales, Scotland

Employers (see section 39)

Law In Force

5

(1) This paragraph applies where A is an employer.

Relevant matter	Description of disabled person
Deciding to whom to offer employment.	A person who is, or has notified A that the person may be, an applicant for the employment.
Employment by A.	An applicant for employment by A.
	An employee of A's.

(2) Where A is the employer of a disabled contract worker (B), A must comply with the first, second and third requirements on each occasion when B is supplied to a principal to do contract work.

(3) In relation to the first requirement (as it applies for the purposes of sub-paragraph (2))—

(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of all or most of the principals to whom B is or might be supplied,

(b) the reference to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is the same or similar in the case of each of the principals referred to in paragraph (a), and

(c) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if the provision, criterion or practice were applied by or on behalf of A.

(4) In relation to the second requirement (as it applies for the purposes of sub-paragraph (2))—

(a) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by each of the principals referred to in sub-paragraph (3)(a),

(b) the reference to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is the same or similar in the case of each of those principals, and

(c) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if the premises were occupied by A.

(5) In relation to the third requirement (as it applies for the purposes of sub-paragraph (2))—

(a) the reference in section 20(5) to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is the same or similar in the case of each of the principals referred to in sub-paragraph (3)(a), and

(b) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if A were the person to whom B was supplied.

Commencement

Sch. 8(2) para. 5(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 5(1)-(5)(b): England, Wales, Scotland

Principals in contract work (see section 41)

Law In Force

6

(1) This paragraph applies where A is a principal.

Relevant matter	Description of disabled person
Contract work that A may make available.	A person who is, or has notified A that the person may be, an applicant to do the work.
Contract work that A makes available.	A person who is supplied to do the work.

(2) A is not required to do anything that a disabled person's employer is required to do by virtue of paragraph 5.

Commencement

Sch. 8(2) para. 6(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 6(1)-(2): England, Wales, Scotland

Partnerships (see section 44)

Law In Force

7

(1) This paragraph applies where A is a firm or a proposed firm.

Relevant matter	Description of disabled person
Deciding to whom to offer a position as a partner.	A person who is, or has notified A that the person may be, a candidate for the position.
A position as a partner.	A candidate for the position.
	The partner who holds the position.

(2) Where a firm or proposed firm (A) is required by this Schedule to take a step in relation to an interested disabled person (B)—

(a) the cost of taking the step is to be treated as an expense of A;

(b) the extent to which B should (if B is or becomes a partner) bear the cost is not to exceed such amount as is reasonable (having regard in particular to B's entitlement to share in A's profits).

Commencement

Sch. 8(2) para. 7(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 7(1)-(2)(b): England, Wales, Scotland

LLPs (see section 45)

Law In Force

8

(1) This paragraph applies where A is an LLP or a proposed LLP.

Relevant matter	Description of disabled person
Deciding to whom to offer a position as a member.	A person who is, or has notified A that the person may be, a candidate for the position.
A position as a member.	A candidate for the position.
	The member who holds the position.

(2) Where an LLP or proposed LLP (A) is required by this Schedule to take a step in relation to an interested disabled person (B)—

(a) the cost of taking the step is to be treated as an expense of A;

(b) the extent to which B should (if B is or becomes a member) bear the cost is not to exceed such amount as is reasonable (having regard in particular to B's entitlement to share in A's profits).

Commencement

Sch. 8(2) para. 8(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 8(1)-(2)(b): England, Wales, Scotland

Barristers and their clerks (see section 47)

Law In Force

9

This paragraph applies where A is a barrister or barrister's clerk.

Relevant matter	Description of disabled person
Deciding to whom to offer a pupillage or tenancy.	A person who is, or has notified A that the person may be, an applicant for the pupillage or tenancy.
A pupillage or tenancy.	An applicant for the pupillage or tenancy.
	The pupil or tenant.

Commencement

Sch. 8(2) para. 9: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 9: England, Wales, Scotland

Advocates and their clerks (see section 48)

Law In Force

10

This paragraph applies where A is an advocate or advocate's clerk.

Relevant matter	Description of disabled person
Deciding who to offer to take as a devil or to whom to offer membership of a stable.	A person who applies, or has notified A that the person may apply, to be taken as a devil or to become a member of the stable.
The relationship with a devil or membership of a stable.	An applicant to be taken as a devil or to become a member of the stable.
	The devil or member.

Commencement

Sch. 8(2) para. 10: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 10: England, Wales, Scotland

Persons making appointments to offices etc. (see sections 49 to 51)

Law In Force

11

This paragraph applies where A is a person who has the power to make an appointment to a personal or public office.

Relevant matter	Description of disabled person
Deciding to whom to offer the appointment.	A person who is, or has notified A that the person may be, seeking the appointment. A person who is being considered for the appointment.
Appointment to the office.	A person who is seeking, or being considered for, appointment to the office.

Commencement

Sch. 8(2) para. 11: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 11: England, Wales, Scotland

Law In Force

12

This paragraph applies where A is a relevant person in relation to a personal or public office.

Relevant matter	Description of disabled person
Appointment to the office.	A person appointed to the office.

Commencement

Sch. 8(2) para. 12: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 12: England, Wales, Scotland

Law In Force

13

This paragraph applies where A is a person who has the power to make a recommendation for, or give approval to, an appointment to a public office.

Relevant matter	Description of disabled person
Deciding who to recommend or approve for appointment to the office.	A person who is, or has notified A that the person may be, seeking recommendation or approval for appointment to the office. A person who is being considered for recommendation or approval for appointment to the office.

Relevant matter	Description of disabled person
An appointment to the office.	A person who is seeking, or being considered for, appointment to the office in question.

Commencement

Sch. 8(2) para. 13: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 13: England, Wales, Scotland

Law In Force

14

In relation to the second requirement in a case within paragraph 11, 12 or 13, the reference in paragraph 2(2)(b) to premises occupied by A is to be read as a reference to premises—

(a) under the control of A, and

(b) at or from which the functions of the office concerned are performed.

Commencement

Sch. 8(2) para. 14(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 14(a)-(b): England, Wales, Scotland

Qualifications bodies (see section 53)

Law In Force

15

(1) This paragraph applies where A is a qualifications body.

Relevant matter	Description of disabled person
Deciding upon whom to confer a relevant qualification.	A person who is, or has notified A that the person may be, an applicant for the conferment of the qualification.
Conferment by the body of a relevant qualification.	An applicant for the conferment of the qualification.
	A person who holds the qualification.

(2) A provision, criterion or practice does not include the application of a competence standard.

Commencement

Sch. 8(2) para. 15(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 15(1)-(2): England, Wales, Scotland

Employment service-providers (see section 55)

Law In Force

16

This paragraph applies where—

(a) A is an employment service-provider, and

(b) the employment service which A provides is vocational training within the meaning given by section 56(6)(b).

Relevant matter	Description of disabled person
Deciding to whom to offer to provide the service.	A person who is, or has notified A that the person may be, an applicant for the provision of the service.
Provision by A of the service.	A person who applies to A for the provision of the service.
	A person to whom A provides the service.

Commencement

Sch. 8(2) para. 16(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 16(a)-(b): England, Wales, Scotland

Trade organisations (see section 57)

Law In Force

17

This paragraph applies where A is a trade organisation.

Relevant matter	Description of disabled person
Deciding to whom to offer membership of the organisation.	A person who is, or has notified A that the person may be, an applicant for membership.
Membership of the organisation.	An applicant for membership.

Relevant matter	Description of disabled person
	A member.

Commencement

Sch. 8(2) para. 17: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 17: England, Wales, Scotland

Local authorities (see section 58)

Law In Force

18

(1) This paragraph applies where A is a local authority.

Relevant matter	Description of disabled person
A member's carrying-out of official business.	The member.

(2) Regulations may, for the purposes of a case within this paragraph, make provision—

(a) as to circumstances in which a provision, criterion or practice is, or is not, to be taken to put a disabled person at the disadvantage referred to in the first requirement;

(b) as to circumstances in which a physical feature is, or is not, to be taken to put a disabled person at the disadvantage referred to in the second requirement;

(c) as to circumstances in which it is, or in which it is not, reasonable for a local authority to be required to take steps of a prescribed description;

(d) as to steps which it is always, or which it is never, reasonable for a local authority to take.

Commencement

Sch. 8(2) para. 18(1)-(2)(d): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 18(1)-(2)(d): England, Wales, Scotland

Occupational pensions (see section 61)

Law In Force

19

This paragraph applies where A is, in relation to an occupational pension scheme, a responsible person within the meaning of section 61.

Relevant matter	Description of disabled person
Carrying out A's functions in relation to the scheme.	A person who is or may be a member of the scheme.

Commencement

Sch. 8(2) para. 19: October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(2) para. 19: England, Wales, Scotland

PART 3

LIMITATIONS ON THE DUTY

Law In Force

20 Lack of knowledge of disability, etc.

(1) A is not subject to a duty to make reasonable adjustments if A does not know, and could not reasonably be expected to know—

(a) in the case of an applicant or potential applicant, that an interested disabled person is or may be an applicant for the work in question;

(b) **[** in any case referred to in Part 2 of this Schedule **]**[1] , that an interested disabled person has a disability and is likely to be placed at the disadvantage referred to in the first, second or third requirement.

(2) An applicant is, in relation to the description of A specified in the first column of the table, a person of a description specified in the second column (and the reference to a potential applicant is to be construed accordingly).

Description of A	Applicant
An employer	An applicant for employment
A firm or proposed firm	A candidate for a position as a partner
An LLP or proposed LLP	A candidate for a position as a member
A barrister or barrister's clerk	An applicant for a pupillage or tenancy
An advocate or advocate's clerk	An applicant for being taken as an advocate's devil or for becoming a member of a stable
A relevant person in relation to a personal or public office	A person who is seeking appointment to, or recommendation or approval for appointment to, the office

Description of A	Applicant
A qualifications body	An applicant for the conferment of a relevant qualification
An employment service-provider	An applicant for the provision of an employment service
A trade organisation	An applicant for membership

(3) If the duty to make reasonable adjustments is imposed on A by section 55, this paragraph applies only in so far as the employment service which A provides is vocational training within the meaning given by section 56(6)(b).

Notes

[1] Words substituted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 art.6(2) (April 4, 2011)

Commencement

Sch. 8(3) para. 20(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(h))

Extent

Sch. 8(3) para. 20(1)-(3): England, Wales, Scotland

SCHEDULE 9

WORK: EXCEPTIONS

Section 83

PART 1

OCCUPATIONAL REQUIREMENTS

Law In Force

1 General

(1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to work a requirement to have a particular protected characteristic, if A shows that, having regard to the nature or context of the work—

(a) it is an occupational requirement,

(b) the application of the requirement is a proportionate means of achieving a legitimate aim, and

(c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

(2) The provisions are—

(a) section 39(1)(a) or (c) or (2)(b) or (c);
(b) section 41(1)(b);
(c) section 44(1)(a) or (c) or (2)(b) or (c);
(d) section 45(1)(a) or (c) or (2)(b) or (c);
(e) section 49(3)(a) or (c) or (6)(b) or (c);
(f) section 50(3)(a) or (c) or (6)(b) or (c);
(g) section 51(1).

(3) The references in sub-paragraph (1) to a requirement to have a protected characteristic are to be read—

(a) in the case of gender reassignment, as references to a requirement not to be a transsexual person (and section 7(3) is accordingly to be ignored);
(b) in the case of marriage and civil partnership, as references to a requirement not to be married or a civil partner (and section 8(2) is accordingly to be ignored).

(4) In the case of a requirement to be of a particular sex, sub-paragraph (1) has effect as if in paragraph (c), the words from "(or" to the end were omitted.

Commencement

Sch. 9(1) para. 1(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 1(1)-(4): England, Wales, Scotland

Law In Force

2 Religious requirements relating to sex, marriage etc., sexual orientation

(1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to employment a requirement to which sub-paragraph (4) applies if A shows that—

(a) the employment is for the purposes of an organised religion,
(b) the application of the requirement engages the compliance or non-conflict principle, and
(c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

(2) The provisions are—

(a) section 39(1)(a) or (c) or (2)(b) or (c);
(b) section 49(3)(a) or (c) or (6)(b) or (c);
(c) section 50(3)(a) or (c) or (6)(b) or (c);
(d) section 51(1).

(3) A person does not contravene section 53(1) or (2)(a) or (b) by applying in relation to a relevant qualification (within the meaning of that section) a requirement to which sub-paragraph (4) applies if the person shows that—

(a) the qualification is for the purposes of employment mentioned in sub-paragraph (1)(a), and
(b) the application of the requirement engages the compliance or non-conflict principle.

(4) This sub-paragraph applies to—

(a) a requirement to be of a particular sex;

(b) a requirement not to be a transsexual person;

(c) a requirement not to be married or a civil partner;

[(ca) a requirement not to be married to **[** , or the civil partner of, **]** [2] a person of the same sex; **]** [1]

[(cb) a requirement not to be the civil partner of a person of the opposite sex; **]** [3]

(d) a requirement not to be married to, or the civil partner of, a person who has a living former spouse or civil partner;

(e) a requirement relating to circumstances in which a marriage or civil partnership came to an end;

(f) a requirement related to sexual orientation.

(5) The application of a requirement engages the compliance principle if the requirement is applied so as to comply with the doctrines of the religion.

(6) The application of a requirement engages the non-conflict principle if, because of the nature or context of the employment, the requirement is applied so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

(7) A reference to employment includes a reference to an appointment to a personal or public office.

(8) In the case of a requirement within sub-paragraph (4)(a), sub-paragraph (1) has effect as if in paragraph (c) the words from "(or" to the end were omitted.

Notes

[1] Added by Marriage (Same Sex Couples) Act 2013 c. 30 Sch.7(2) para.45 (March 13, 2014: insertion has effect as SI 2014/93 subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1)

[2] Words inserted by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Pt 3 reg.11(a) (December 2, 2019)

[3] Added by Civil Partnership (Opposite-sex Couples) Regulations 2019/1458 Pt 3 reg.11(b) (December 2, 2019)

Commencement

Sch. 9(1) para. 2(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 2(1)-(8): England, Wales, Scotland

Law In Force

3 Other requirements relating to religion or belief

A person (A) with an ethos based on religion or belief does not contravene a provision mentioned in paragraph 1(2) by applying in relation to work a requirement to be of a particular religion or belief if A shows that, having regard to that ethos and to the nature or context of the work—

(a) it is an occupational requirement,

(b) the application of the requirement is a proportionate means of achieving a legitimate aim, and

(c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

Commencement

Sch. 9(1) para. 3(a)-(c): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 3(a)-(c): England, Wales, Scotland

Law In Force

4 Armed forces

(1) A person does not contravene section 39(1)(a) or (c) or (2)(b) by applying in relation to service in the armed forces a relevant requirement if the person shows that the application is a proportionate means of ensuring the combat effectiveness of the armed forces.

(2) A relevant requirement is—

(a) a requirement to be a man;

(b) a requirement not to be a transsexual person.

(3) This Part of this Act, so far as relating to age or disability, does not apply to service in the armed forces; and section 55, so far as relating to disability, does not apply to work experience in the armed forces.

Commencement

Sch. 9(1) para. 4(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 4(1)-(3): England, Wales, Scotland

Law In Force

5 Employment services

(1) A person (A) does not contravene section 55(1) or (2) if A shows that A's treatment of another person relates only to work the offer of which could be refused to that other person in reliance on paragraph 1, 2, 3 or 4.

(2) A person (A) does not contravene section 55(1) or (2) if A shows that A's treatment of another person relates only to training for work of a description mentioned in sub-paragraph (1).

(3) A person (A) does not contravene section 55(1) or (2) if A shows that—

(a) A acted in reliance on a statement made to A by a person with the power to offer the work in question to the effect that, by virtue of sub-paragraph (1) or (2), A's action would be lawful, and

(b) it was reasonable for A to rely on the statement.

(4) A person commits an offence by knowingly or recklessly making a statement such as is mentioned in sub-paragraph (3)(a) which in a material respect is false or misleading.

(5) A person guilty of an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement

Sch. 9(1) para. 5(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 5(1)-(5): England, Wales, Scotland

Law In Force

6 Interpretation

(1) This paragraph applies for the purposes of this Part of this Schedule.

(2) A reference to contravening a provision of this Act is a reference to contravening that provision by virtue of section 13.

(3) A reference to work is a reference to employment, contract work, a position as a partner or as a member of an LLP, or an appointment to a personal or public office.

(4) A reference to a person includes a reference to an organisation.

(5) A reference to section 39(2)(b), 44(2)(b), 45(2)(b), 49(6)(b) or 50(6)(b) is to be read as a reference to that provision with the omission of the words "or for receiving any other benefit, facility or service".

(6) A reference to section 39(2)(c), 44(2)(c), 45(2)(c), 49(6)(c), 50(6)(c), 53(2)(a) or 55(2)(c) (dismissal, etc.) does not include a reference to that provision so far as relating to sex.

(7) The reference to paragraph (b) of section 41(1), so far as relating to sex, is to be read as if that paragraph read—

"(b) by not allowing the worker to do the work."

Commencement

Sch. 9(1) para. 6(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(1) para. 6(1)-(7): England, Wales, Scotland

PART 2

EXCEPTIONS RELATING TO AGE

Law In Force

7 Preliminary

For the purposes of this Part of this Schedule, a reference to an age contravention is a reference to a contravention of this Part of this Act, so far as relating to age.

Commencement

Sch. 9(2) para. 7: October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 7: England, Wales, Scotland

Repealed

8 […][1]

Notes

[1] Repealed by Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011/1069 reg.2(2) (April 6, 2011: repeal has effect subject to transitional provisions specified in SI 2011/1069, reg.5)

Repealed

9 […][1]

Notes

[1] Repealed by Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011/1069 reg.2(3) (April 6, 2011)

Law In Force

10 Benefits based on length of service

(1) It is not an age contravention for a person (A) to put a person (B) at a disadvantage when compared with another (C), in relation to the provision of a benefit, facility or service in so far as the disadvantage is because B has a shorter period of service than C.

(2) If B's period of service exceeds 5 years, A may rely on sub-paragraph (1) only if A reasonably believes that doing so fulfils a business need.

(3) A person's period of service is whichever of the following A chooses—

(a) the period for which the person has been working for A at or above a level (assessed by reference to the demands made on the person) that A reasonably regards as appropriate for the purposes of this paragraph, or

(b) the period for which the person has been working for A at any level.

(4) The period for which a person has been working for A must be based on the number of weeks during the whole or part of which the person has worked for A.

(5) But for that purpose A may, so far as is reasonable, discount—

(a) periods of absence;

(b) periods that A reasonably regards as related to periods of absence.

(6) For the purposes of sub-paragraph (3)(b), a person is to be treated as having worked for A during any period in which the person worked for a person other than A if—

(a) that period counts as a period of employment with A as a result of section 218 of the Employment Rights Act 1996, or

(b) if sub-paragraph (a) does not apply, that period is treated as a period of employment by an enactment pursuant to which the person's employment was transferred to A.

(7) For the purposes of this paragraph, the reference to a benefit, facility or service does not include a reference to a benefit, facility or service which may be provided only by virtue of a person's ceasing to work.

Commencement

Sch. 9(2) para. 10(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 10(1)-(7): England, Wales, Scotland

Law In Force

11 The national minimum wage: young workers

(1) It is not an age contravention for a person to pay a young worker (A) at a lower rate than that at which the person pays an older worker (B) if—

(a) the hourly rate for the national minimum wage for a person of A's age is lower than that for a person of B's age, and

(b) the rate at which A is paid is below the single hourly rate.

(2) A young worker is a person who qualifies for the national minimum wage at a lower rate than the single hourly rate; and an older worker is a person who qualifies for the national minimum wage at a higher rate than that at which the young worker qualifies for it.

(3) The single hourly rate is the rate prescribed under section 1(3) of the National Minimum Wage Act 1998.

Commencement

Sch. 9(2) para. 11(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 11(1)-(3): England, Wales, Scotland

Law In Force

12 The national minimum wage: apprentices

(1) It is not an age contravention for a person to pay an apprentice who does not qualify for the national minimum wage at a lower rate than the person pays an apprentice who does.

(2) An apprentice is a person who—

(a) is employed under a contract of apprenticeship, or

(b) as a result of provision made by virtue of section 3(2)(a) of the National Minimum Wage Act 1998 (persons not qualifying), is treated as employed under a contract of apprenticeship.

Commencement

Sch. 9(2) para. 12(1)-(2)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 12(1)-(2)(b): England, Wales, Scotland

Law In Force

13 Redundancy

(1) It is not an age contravention for a person to give a qualifying employee an enhanced redundancy payment of an amount less than that of an enhanced redundancy payment which the person gives to another qualifying employee, if each amount is calculated on the same basis.

(2) It is not an age contravention to give enhanced redundancy payments only to those who are qualifying employees by virtue of sub-paragraph (3)(a) or (b).

(3) A person is a qualifying employee if the person—

(a) is entitled to a redundancy payment as a result of section 135 of the Employment Rights Act 1996,

(b) agrees to the termination of the employment in circumstances where the person would, if dismissed, have been so entitled,

(c) would have been so entitled but for section 155 of that Act (requirement for two years' continuous employment), or

(d) agrees to the termination of the employment in circumstances where the person would, if dismissed, have been so entitled but for that section.

(4) An enhanced redundancy payment is a payment the amount of which is, subject to sub-paragraphs (5) and (6), calculated in accordance with section 162(1) to (3) of the Employment Rights Act 1996.

(5) A person making a calculation for the purposes of sub-paragraph (4)—

(a) may treat a week's pay as not being subject to a maximum amount;

(b) may treat a week's pay as being subject to a maximum amount above that for the time being specified in section 227(1) of the Employment Rights Act 1996;

(c) may multiply the appropriate amount for each year of employment by a figure of more than one.

(6) Having made a calculation for the purposes of sub-paragraph (4) (whether or not in reliance on sub-paragraph (5)), a person may multiply the amount calculated by a figure of more than one.

(7) In sub-paragraph (5), "the appropriate amount" has the meaning given in section 162 of the Employment Rights Act 1996, and "a week's pay" is to be read with Chapter 2 of Part 14 of that Act.

(8) For the purposes of sub-paragraphs (4) to (6), the reference to "the relevant date" in subsection (1)(a) of section 162 of that Act is, in the case of a person who is a qualifying employee by virtue of sub-paragraph (3)(b) or (d), to be read as reference to the date of the termination of the employment.

Commencement

Sch. 9(2) para. 13(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 13(1)-(8): England, Wales, Scotland

Law In Force

[14.— Insurance etc.

(1) It is not an age contravention for an employer to make arrangements for, or afford access to, the provision of insurance or a related financial service to or in respect of an employee for a period ending when the employee attains whichever is the greater of—

(a) the age of 65, and

(b) the state pensionable age.

(2) It is not an age contravention for an employer to make arrangements for, or afford access to, the provision of insurance or a related financial service to or in respect of only such employees as have not attained whichever is the greater of—

(a) the age of 65, and

(b) the state pensionable age.

(3) Sub-paragraphs (1) and (2) apply only where the insurance or related financial service is, or is to be, provided to the employer's employees or a class of those employees—

(a) in pursuance of an arrangement between the employer and another person, or

(b) where the employer's business includes the provision of insurance or financial services of the description in question, by the employer.

(4) The state pensionable age is the pensionable age determined in accordance with the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995[2] .
] [1]

Notes

[1] Substituted by Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011/1069 reg.2(4) (April 6, 2011)

[2] 1995 c.26;paragraph 1 of Schedule 4 was amended by the State Pension Credit Act 2002 (c.16), section 14, Schedule 2, Part 3, paragraph 39; the Welfare Reform Act 2007 (c.5)section 28(1), Schedule 3, paragraph 13; and the Pensions Act 2007 (c.22), section 13(1), Schedule 3, paragraph 4

Commencement

Sch. 9(2) para. 14(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 14(1)-(4): England, Wales, Scotland

Law In Force

15 Child care

(1) A person does not contravene a relevant provision, so far as relating to age, only by providing, or making arrangements for or facilitating the provision of, care for children of a particular age group.

(2) The relevant provisions are—

(a) section 39(2)(b);
(b) section 41(1)(c);
(c) section 44(2)(b);
(d) section 45(2)(b);
(e) section 47(2)(b);
(f) section 48(2)(b);
(g) section 49(6)(b);
(h) section 50(6)(b);
(i) section 57(2)(a);
(j) section 58(3)(a).

(3) Facilitating the provision of care for a child includes—

(a) paying for some or all of the cost of the provision;
(b) helping a parent of the child to find a suitable person to provide care for the child;
(c) enabling a parent of the child to spend more time providing care for the child or otherwise assisting the parent with respect to the care that the parent provides for the child.

(4) A child is a person who has not attained the age of 17.

(5) A reference to care includes a reference to supervision.

Commencement

Sch. 9(2) para. 15(1)-(5): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 15(1)-(5): England, Wales, Scotland

Law In Force

16 Contributions to personal pension schemes

(1) A Minister of the Crown may by order provide that it is not an age contravention for an employer to maintain or use, with respect to contributions to personal pension schemes, practices, actions or decisions relating to age which are of a specified description.

(2) An order authorising the use of practices, actions or decisions which are not in use before the order comes into force must not be made unless the Minister consults such persons as the Minister thinks appropriate.

(3) "Personal pension scheme" has the meaning given in section 1 of the Pension Schemes Act 1993; and "employer" , in relation to a personal pension scheme, has the meaning given in section 318(1) of the Pensions Act 2004.

Commencement

Sch. 9(2) para. 16(1)-(3): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(2) para. 16-(3): England, Wales, Scotland

PART 3

OTHER EXCEPTIONS

Law In Force

17 Non-contractual payments to women on maternity leave

(1) A person does not contravene section 39(1)(b) or (2), so far as relating to pregnancy and maternity, by depriving a woman who is on maternity leave of any benefit from the terms of her employment relating to pay.

(2) The reference in sub-paragraph (1) to benefit from the terms of a woman's employment relating to pay does not include a reference to—

(a) maternity-related pay (including maternity-related pay that is increase-related),
(b) pay (including increase-related pay) in respect of times when she is not on maternity leave, or
(c) pay by way of bonus in respect of times when she is on compulsory maternity leave.

(3) For the purposes of sub-paragraph (2), pay is increase-related in so far as it is to be calculated by reference to increases in pay that the woman would have received had she not been on maternity leave.

(4) A reference to terms of her employment is a reference to terms of her employment that are not in her contract of employment, her contract of apprenticeship or her contract to do work personally.

(5) "Pay" means benefits—
(a) that consist of the payment of money to an employee by way of wages or salary, and
(b) that are not benefits whose provision is regulated by the contract referred to in sub-paragraph (4).

(6) "Maternity-related pay" means pay to which a woman is entitled—
(a) as a result of being pregnant, or
(b) in respect of times when she is on maternity leave.

Commencement

Sch. 9(3) para. 17(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(3) para. 17(1)-(6)(b): England, Wales, Scotland

Law In Force

18 Benefits dependent on marital status, etc.

(1) A person does not contravene this Part of this Act, so far as relating to sexual orientation, by doing anything which prevents or restricts a person who is not **[** within sub-paragraph (1A) **]** [1] from having access to a benefit, facility or service—
(a) the right to which accrued before 5 December 2005 (the day on which section 1 of the Civil Partnership Act 2004 came into force), or
(b) which is payable in respect of periods of service before that date.

[(1A) A person is within this sub-paragraph if the person is—
(a) a man who is married to a woman, or
(b) a woman who is married to a man, or
(c) married to a person of the same sex in a relevant gender change case.

(1B) The reference in sub-paragraph (1A)(c) to a relevant gender change case is a reference to a case where—
(a) the married couple were of the opposite sex at the time of their marriage, and
(b) a full gender recognition certificate has been issued to one of the couple under the Gender Recognition Act 2004.
] [2]

(2) A person does not contravene this Part of this Act, so far as relating to sexual orientation, by providing married persons and civil partners (to the exclusion of all other persons) with access to a benefit, facility or service.

Notes

[1] Word substituted by Marriage (Same Sex Couples) Act 2013 c. 30 Sch.4(6) para.17(2) (March 13, 2014: substitution has effect on March 13, 2014 except as specified in SI 2014/93 art.3(j)(iii) subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1; December 10, 2014 except for the purpose specified in SI 2014/3169 art.2(b); not yet in force otherwise)

[2] Added by Marriage (Same Sex Couples) Act 2013 c. 30 Sch.4(6) para.17(3) (March 13, 2014: insertion has effect on March 13, 2014 except as specified in SI 2014/93 art.3(j)(iii) subject to transitional and transitory provision specified in 2013 c.30 Sch.7 para.1; December 10, 2014 except for the purpose specified in SI 2014/3169 art.2(b); not yet in force otherwise)

Commencement

Sch. 9(3) para. 18(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(3) para. 18(1)-(2): England, Wales, Scotland

Law In Force

19 Provision of services etc. to the public

(1) A does not contravene a provision mentioned in sub-paragraph (2) in relation to the provision of a benefit, facility or service to B if A is concerned with the provision (for payment or not) of a benefit, facility or service of the same description to the public.

(2) The provisions are—

(a) section 39(2) and (4);
(b) section 41(1) and (3);
(c) sections 44(2) and (6) and 45(2) and (6);
(d) sections 49(6) and (8) and 50(6), (7), (9) and (10).

(3) Sub-paragraph (1) does not apply if—

(a) the provision by A to the public differs in a material respect from the provision by A to comparable persons,
(b) the provision to B is regulated by B's terms, or
(c) the benefit, facility or service relates to training.

(4) “Comparable persons” means—

(a) in relation to section 39(2) or (4), the other employees;
(b) in relation to section 41(1) or (3), the other contract workers supplied to the principal;
(c) in relation to section 44(2) or (6), the other partners of the firm;
(d) in relation to section 45(2) or (6), the other members of the LLP;
(e) in relation to section 49(6) or (8) or 50(6), (7), (9) or (10), persons holding offices or posts not materially different from that held by B.

(5) “B's terms” means—

(a) the terms of B's employment,
(b) the terms on which the principal allows B to do the contract work,
(c) the terms on which B has the position as a partner or member, or
(d) the terms of B's appointment to the office.

(6) A reference to the public includes a reference to a section of the public which includes B.

Commencement

Sch. 9(3) para. 19(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(3) para. 19(1)-(6): England, Wales, Scotland

Law In Force

20 Insurance contracts, etc.

(1) It is not a contravention of this Part of this Act, so far as relating to relevant discrimination, to do anything in relation to an annuity, life insurance policy, accident insurance policy or similar matter involving the assessment of risk if—

(a) that thing is done by reference to actuarial or other data from a source on which it is reasonable to rely, and
(b) it is reasonable to do it.

(2) "Relevant discrimination" is—

(a) gender reassignment discrimination;
(b) marriage and civil partnership discrimination;
(c) pregnancy and maternity discrimination;
(d) sex discrimination.

Commencement

Sch. 9(3) para. 20(1)-(2)(d): October 1, 2010 (SI 2010/2317 art. 2(5)(i))

Extent

Sch. 9(3) para. 20(1)-(2)(d): England, Wales, Scotland

SCHEDULE 10

ACCESSIBILITY FOR DISABLED PUPILS

Section 88

Accessibility strategies

Law In Force

1

(1) A local authority in England and Wales must, in relation to schools for which it is the responsible body, prepare—

(a) an accessibility strategy;

(b) further such strategies at such times as may be prescribed.

(2) An accessibility strategy is a strategy for, over a prescribed period—

(a) increasing the extent to which disabled pupils can participate in the schools' curriculums;

(b) improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools;

(c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.

(3) The delivery in sub-paragraph (2)(c) must be—

(a) within a reasonable time;

(b) in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.

(4) An accessibility strategy must be in writing.

(5) A local authority must keep its accessibility strategy under review during the period to which it relates and, if necessary, revise it.

(6) A local authority must implement its accessibility strategy.

Commencement

Sch. 10 para. 1(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 1(1)-(6): England, Wales, Scotland

Law In Force

2

(1) In preparing its accessibility strategy, a local authority must have regard to—

(a) the need to allocate adequate resources for implementing the strategy;

(b) guidance as to the matters mentioned in sub-paragraph (3).

(2) The authority must also have regard to guidance as to compliance with paragraph 1(5).

(3) The matters are—

(a) the content of an accessibility strategy;

(b) the form in which it is to be produced;

(c) persons to be consulted in its preparation.

(4) Guidance may be issued—

(a) for England, by a Minister of the Crown;

(b) for Wales, by the Welsh Ministers.

(5) A local authority must, if asked, make a copy of its accessibility strategy available for inspection at such reasonable times as it decides.

(6) A local authority in England must, if asked by a Minister of the Crown, give the Minister a copy of its accessibility strategy.

(7) A local authority in Wales must, if asked by the Welsh Ministers, give them a copy of its accessibility strategy.

Commencement

Sch. 10 para. 2(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 2(1)-(7): England, Wales, Scotland

Accessibility plans

Law In Force

3

(1) The responsible body of a school in England and Wales must prepare—

(a) an accessibility plan;

(b) further such plans at such times as may be prescribed.

(2) An accessibility plan is a plan for, over a prescribed period—

(a) increasing the extent to which disabled pupils can participate in the school's curriculum,

(b) improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the school, and

(c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.

(3) The delivery in sub-paragraph (2)(c) must be—

(a) within a reasonable time;

(b) in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.

(4) An accessibility plan must be in writing.

(5) The responsible body must keep its accessibility plan under review during the period to which it relates and, if necessary, revise it.

(6) The responsible body must implement its accessibility plan.

(7) A relevant inspection may extend to the performance by the responsible body of its functions in relation to the preparation, publication, review, revision and implementation of its accessibility plan.

(8) A relevant inspection is an inspection under—

(a) Part 1 of the Education Act 2005, or

(b) Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation and inspection of independent education provision in England).

Commencement

Sch. 10 para. 3(1)-(8)(b): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 3(1)-(8)(b): England, Wales, Scotland

Law In Force

4

(1) In preparing an accessibility plan, the responsible body must have regard to the need to allocate adequate resources for implementing the plan.

(2) The proprietor of an independent educational institution (other than an Academy) must, if asked, make a copy of the school's accessibility plan available for inspection at such reasonable times as the proprietor decides.

(3) The proprietor of an independent educational institution in England (other than an Academy) must, if asked by a Minister of the Crown, give the Minister a copy of the school's accessibility plan.

(4) The proprietor of an independent school in Wales (other than an Academy) must, if asked by the Welsh Ministers, give them a copy of the school's accessibility plan.

Commencement

Sch. 10 para. 4(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 4(1)-(4): England, Wales, Scotland

Power of direction

Law In Force

5

(1) This sub-paragraph applies if the appropriate authority is satisfied (whether or not on a complaint) that a responsible body—

(a) has acted or is proposing to act unreasonably in the discharge of a duty under this Schedule, or

(b) has failed to discharge such a duty.

(2) This sub-paragraph applies if the appropriate authority is satisfied (whether or not on a complaint) that a responsible body of a school specified in sub-paragraph (3)—

(a) has acted or is proposing to act unreasonably in the discharge of a duty the body has in relation to the provision to the authority of copies of the body's accessibility plan or the inspection of that plan, or

(b) has failed to discharge the duty.

(3) The schools are—

(a) schools approved under section 342 of the Education Act 1996 (non-maintained special schools);

[(b) Academy schools;

(c) alternative provision Academies. **]** [1]

(4) This sub-paragraph applies if a Tribunal has made an order under paragraph 5 of Schedule 17 and the appropriate authority is satisfied (whether or not on a complaint) that the responsible body concerned—

(a) has acted or is proposing to act unreasonably in complying with the order, or

(b) has failed to comply with the order.

(5) If sub-paragraph (1), (2) or (4) applies, the appropriate authority may give a responsible body such directions as the authority thinks expedient as to—

(a) the discharge by the body of the duty, or

(b) compliance by the body with the order.

(6) A direction may be given in relation to sub-paragraph (1) or (2) even if the performance of the duty is contingent on the opinion of the responsible body.

(7) A direction may not, unless sub-paragraph (8) applies, be given to the responsible body of a school in England in respect of a matter—

(a) that has been complained about to a Local Commissioner in accordance with Chapter 2 of Part 10 of the Apprenticeships, Skills, Children and Learning Act 2009 (parental complaints against governing bodies etc.), or

(b) that the appropriate authority thinks could have been so complained about.

(8) This sub-paragraph applies if—

(a) the Local Commissioner has made a recommendation to the responsible body under section 211(4) of the Apprenticeships, Skills, Children and Learning Act 2009 (statement following investigation) in respect of the matter, and

(b) the responsible body has not complied with the recommendation.

(9) A direction—

(a) may be varied or revoked by the appropriate authority;

(b) may be enforced, on the application of the appropriate authority, by a mandatory order obtained in accordance with section 31 of the Senior Courts Act 1981.

(10) The appropriate authority is—

(a) in relation to the responsible body of a school in England, the Secretary of State;

(b) in relation to the responsible body of a school in Wales, the Welsh Ministers.

Notes

[1] Sch.10 para.5(3)(b) and (c) substituted for Sch.10 para.5(3)(b) by Education Act 2011 c. 21 Sch.13 para.20(3) (April 1, 2012)

Commencement

Sch. 10 para. 5(1)-(10)(b): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 5(1)-(10)(b): England, Wales, Scotland

Supplementary

Law In Force

6

(1) This paragraph applies for the purposes of this Schedule.

(2) Regulations may prescribe services which are, or are not, to be regarded as being—

(a) education;

(b) a benefit, facility or service.

(3) The power to make regulations is exercisable by—

(a) in relation to England, a Minister of the Crown;

(b) in relation to Wales, the Welsh Ministers.

(4) "Disabled pupil" includes a disabled person who may be admitted to the school as a pupil.

(5) "Responsible body" means—

(a) in relation to a maintained school or a maintained nursery school, the local authority or governing body;

(b) in relation to a pupil referral unit, the local authority;

(c) in relation to an independent educational institution **[** or an alternative provision Academy that is not an independent educational institution **]** [1] , the proprietor;

(d) in relation to a special school not maintained by a local authority, the proprietor.

(6) "Governing body", in relation to a maintained school, means the body corporate (constituted in accordance with regulations under section 19 of the Education Act 2002) which the school has as a result of that section.

(7) "Maintained school" has the meaning given in section 20 of the School Standards and Framework Act 1998; and "maintained nursery school" has the meaning given in section 22 of that Act.

Notes

[1] Words inserted by Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012/976 Sch.1 para.27 (April 1, 2012)

Commencement

Sch. 10 para. 6(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 10 para. 6(1)-(7): England, Wales, Scotland

SCHEDULE 11

SCHOOLS: EXCEPTIONS

Section 89

PART 1

SEX DISCRIMINATION

Admission to single-sex schools

Law In Force

1

(1) Section 85(1), so far as relating to sex, does not apply in relation to a single-sex school.

(2) A single-sex school is a school which—

(a) admits pupils of one sex only, or

(b) on the basis of the assumption in sub-paragraph (3), would be taken to admit pupils of one sex only.

(3) That assumption is that pupils of the opposite sex are to be disregarded if—

(a) their admission to the school is exceptional, or

(b) their numbers are comparatively small and their admission is confined to particular courses or classes.

(4) In the case of a school which is a single-sex school by virtue of sub-paragraph (3)(b), section 85(2)(a) to (d), so far as relating to sex, does not prohibit confining pupils of the same sex to particular courses or classes.

Commencement

Sch. 11(1) para. 1(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(1) para. 1(1)-(4): England, Wales, Scotland

Single-sex boarding at schools

Law In Force

2

(1) Section 85(1), so far as relating to sex, does not apply in relation to admission as a boarder to a school to which this paragraph applies.

(2) Section 85(2)(a) to (d), so far as relating to sex, does not apply in relation to boarding facilities at a school to which this paragraph applies.

(3) This paragraph applies to a school (other than a single-sex school) which has some pupils as boarders and others as non-boarders and which—

(a) admits as boarders pupils of one sex only, or

(b) on the basis of the assumption in sub-paragraph (4), would be taken to admit as boarders pupils of one sex only.

(4) That assumption is that pupils of the opposite sex admitted as boarders are to be disregarded if their numbers are small compared to the numbers of other pupils admitted as boarders.

Commencement

Sch. 11(1) para. 2(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(1) para. 2(1)-(4): England, Wales, Scotland

Single-sex schools turning co-educational

Law In Force

3

(1) If the responsible body of a single-sex school decides to alter its admissions arrangements so that the school will cease to be a single-sex school, the body may apply for a transitional exemption order in relation to the school.

(2) If the responsible body of a school to which paragraph 2 applies decides to alter its admissions arrangements so that the school will cease to be one to which that paragraph applies, the body may apply for a transitional exemption order in relation to the school.

(3) A transitional exemption order in relation to a school is an order which, during the period specified in the order as the transitional period, authorises—

(a) sex discrimination by the responsible body of the school in the arrangements it makes for deciding who is offered admission as a pupil;

(b) the responsible body, in the circumstances specified in the order, not to admit a person as a pupil because of the person's sex.

(4) Paragraph 4 applies in relation to the making of transitional exemption orders.

(5) The responsible body of a school does not contravene this Act, so far as relating to sex discrimination, if—

(a) in accordance with a transitional exemption order, or

(b) pending the determination of an application for a transitional exemption order in relation to the school,

it does not admit a person as a pupil because of the person's sex.

Commencement

Sch. 11(1) para. 3(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(1) para. 3(1)-(5)(b): England, Wales, Scotland

Law In Force

4

(1) In the case of a maintained school within the meaning given by section 32 of the Education and Inspections Act 2006, a transitional exemption order may be made in accordance with such provision as is made in regulations under section 21 of that Act (orders made by local authority or adjudicator in relation to schools in England).

(2) In the case of a school in Wales maintained by a local authority, a transitional exemption order may be made in accordance with **[** section 82 of, or Part 3 of Schedule 3 to, the School Standards and Organisation (Wales) Act 2013 **]** [1] (orders made by Welsh Ministers).

(3) In the case of a school in Scotland managed by an education authority or in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980—

(a) the responsible body may submit to the Scottish Ministers an application for the making of a transitional exemption order, and

(b) the Scottish Ministers may make the order.

(4) **[…]**[2]

(5) **[…]**[3]

(6) In the case of a school in England or Wales not coming within sub-paragraph (1), (2), (4) or (5) or an independent school in Scotland—

(a) the responsible body may submit to the Commission an application for the making of a transitional exemption order, and

(b) the Commission may make the order.

(7) An application under sub-paragraph (6) must specify—

(a) the period proposed by the responsible body as the transitional period to be specified in the order,

(b) the stages within that period by which the body proposes to move to the position where section 85(1)(a) and (c), so far as relating to sex, is complied with, and

(c) any other matters relevant to the terms and operation of the order applied for.

(8) The Commission must not make an order on an application under sub-paragraph (6) unless satisfied that the terms of the application are reasonable, having regard to—

(a) the nature of the school's premises,

(b) the accommodation, equipment and facilities available, and

(c) the responsible body's financial resources.

Notes

[1] Words substituted by School Standards and Organisation (Wales) Act 2013 anaw. 1 Sch.5(2) para.28(2)(a) (October 1, 2013)

[2] Repealed by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 art.10 (October 1, 2010)

[3] Repealed by School Standards and Organisation (Wales) Act 2013 anaw. 1 Sch.5(2) para.28(2)(b) (October 1, 2013)

Commencement

Sch. 11(1) para. 4(1)-(8)(c): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(1) para. 4(1)-(8)(c): England, Wales, Scotland

PART 2

RELIGIOUS OR BELIEF-RELATED DISCRIMINATION

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Scotland | Wales

Law In Force

England and Scotland

5 School with religious character etc.

Section 85(1) and (2)(a) to (d), so far as relating to religion or belief, does not apply in relation to—

(a) a school designated under section 69(3) of the School Standards and Framework Act 1998 (foundation or voluntary school with religious character);

(b) a school **[** (other than an alternative provision Academy) **]**[1] listed in the register of independent schools for England or for Wales, if the school's entry in the register records that the school has a religious ethos;

(c) a school transferred to an education authority under section 16 of the Education (Scotland) Act 1980 (transfer of certain schools to education authorities) which is conducted in the interest of a church or denominational body;

(d) a school provided by an education authority under section 17(2) of that Act (denominational schools);

(e) a grant-aided school (within the meaning of that Act) which is conducted in the interest of a church or denominational body;

(f) a school registered in the register of independent schools for Scotland if the school admits only pupils who belong, or whose parents belong, to one or more particular denominations;

(g) a school registered in that register if the school is conducted in the interest of a church or denominational body.

Notes

[1] Words inserted by Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012/976 Sch.1 para.28 (April 1, 2012)

Wales

[5 School with religious character etc.

Section 85(1) and (2)(a) to (d), so far as relating to religion or belief, does not apply in relation to—

(a) a school designated under section 68A or 69(3) of the School Standards and Framework Act 1998 (foundation or voluntary school with religious character);

(b) a school (other than an alternative provision Academy) listed in the register of independent schools for England or for Wales, if the school's entry in the register records that the school has a religious ethos;

(c) a school transferred to an education authority under section 16 of the Education (Scotland) Act 1980 (transfer of certain schools to education authorities) which is conducted in the interest of a church or denominational body;

(d) a school provided by an education authority under section 17(2) of that Act (denominational schools);

(e) a grant-aided school (within the meaning of that Act) which is conducted in the interest of a church or denominational body;

(f) a school registered in the register of independent schools for Scotland if the school admits only pupils who belong, or whose parents belong, to one or more particular denominations;

(g) a school registered in that register if the school is conducted in the interest of a church or denominational body.

] [1]

Notes

[1] Words inserted by Curriculum and Assessment (Wales) Act 2021 asc. 4 Sch.2 para.63 (April 30, 2021)

Commencement

Sch. 11(2) para. 5(a)-(g): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(2) para. 5(a)-(g): England, Wales, Scotland

Law In Force

6 Curriculum, worship, etc.

Section 85(2)(a) to (d), so far as relating to religion or belief, does not apply in relation to anything done in connection with acts of worship or other religious observance organised by or on behalf of a school (whether or not forming part of the curriculum).

Commencement

Sch. 11(2) para. 6: October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(2) para. 6: England, Wales, Scotland

Law In Force

7 Power to amend

(1) A Minister of the Crown may by order amend this Part of this Schedule—

(a) so as to add, vary or omit an exception to section 85;

(b) so as to make provision about the construction or application of section 19(2)(d) in relation to section 85.

(2) The power under sub-paragraph (1) is exercisable only in relation to religious or belief-related discrimination.

(3) Before making an order under this paragraph the Minister must consult—

(a) the Welsh Ministers,

(b) the Scottish Ministers, and

(c) such other persons as the Minister thinks appropriate.

Commencement

Sch. 11(2) para. 7(1)-(3)(c): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(2) para. 7(1)-(3)(c): England, Wales, Scotland

PART 3

DISABILITY DISCRIMINATION

Law In Force

8 Permitted form of selection

(1) A person does not contravene section 85(1), so far as relating to disability, only by applying a permitted form of selection.

(2) In relation to England and Wales, a permitted form of selection is—

(a) in the case of a maintained school which is not designated as a grammar school under section 104 of the School Standards and Framework Act 1998, a form of selection mentioned in section 99(2) or (4) of that Act;

(b) in the case of a maintained school which is so designated, its selective admission arrangements (within the meaning of section 104 of that Act);

(c) in the case of an independent educational institution, arrangements which provide for some or all of its pupils to be selected by reference to general or special ability or aptitude, with a view to admitting only pupils of high ability or aptitude.

(3) In relation to Scotland, a permitted form of selection is—

(a) in the case of a school managed by an education authority, arrangements approved by the Scottish Ministers for the selection of pupils for admission;

(b) in the case of an independent school, arrangements which provide for some or all of its pupils to be selected by reference to general or special ability or aptitude, with a view to admitting only pupils of high ability or aptitude.

(4) "Maintained school" has the meaning given in section 22 of the School Standards and Framework Act 1998.

Commencement

Sch. 11(3) para. 8(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(g))

Extent

Sch. 11(3) para. 8(1)-(4): England, Wales, Scotland

SCHEDULE 12

FURTHER AND HIGHER EDUCATION EXCEPTIONS

Section 94

PART 1

SINGLE-SEX INSTITUTIONS, ETC.

Admission to single-sex institutions

Law In Force

1

(1) Section 91(1), so far as relating to sex, does not apply in relation to a single-sex institution.

(2) A single-sex institution is an institution to which section 91 applies, which—

(a) admits students of one sex only, or

(b) on the basis of the assumption in sub-paragraph (3), would be taken to admit students of one sex only.

(3) That assumption is that students of the opposite sex are to be disregarded if—

(a) their admission to the institution is exceptional, or

(b) their numbers are comparatively small and their admission is confined to particular courses or classes.

(4) In the case of an institution which is a single-sex institution by virtue of sub-paragraph (3)(b), section 91(2)(a) to (d), so far as relating to sex, does not prohibit confining students of the same sex to particular courses or classes.

Commencement

Sch. 12(1) para. 1(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(1) para. 1(1)-(4): England, Wales, Scotland

Single-sex institutions turning co-educational

Law In Force

2

(1) If the responsible body of a single-sex institution decides to alter its admissions arrangements so that the institution will cease to be a single-sex institution, the body may apply for a transitional exemption order in relation to the institution.

(2) A transitional exemption order relating to an institution is an order which, during the period specified in the order as the transitional period, authorises—

(a) sex discrimination by the responsible body of the institution in the arrangements it makes for deciding who is offered admission as a student;

(b) the responsible body, in the circumstances specified in the order, not to admit a person as a student because of the person's sex.

(3) Paragraph 3 applies in relation to the making of a transitional exemption order.

(4) The responsible body of an institution does not contravene this Act, so far as relating to sex discrimination, if —

(a) in accordance with a transitional exemption order, or

(b) pending the determination of an application for a transitional exemption order in relation to the institution,

it does not admit a person as a student because of the person's sex.

(5) The responsible body of an institution does not contravene this Act, so far as relating to sex discrimination, if —

(a) in accordance with a transitional exemption order, or

(b) pending the determination of an application for a transitional exemption order in relation to the institution,

it discriminates in the arrangements it makes for deciding who is offered admission as a student.

Commencement

Sch. 12(1) para. 2(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(1) para. 2(1)-(5)(b): England, Wales, Scotland

Law In Force

3

(1) In the case of a single-sex institution—

(a) its responsible body may submit to the Commission an application for the making of a transitional exemption order, and

(b) the Commission may make the order.

(2) An application under sub-paragraph (1) must specify—

(a) the period proposed by the responsible body as the transitional period to be specified in the order,

(b) the stages, within that period, by which the body proposes to move to the position where section 91(1)(a) and (c), so far as relating to sex, is complied with, and
(c) any other matters relevant to the terms and operation of the order applied for.

(3) The Commission must not make an order on an application under sub-paragraph (1) unless satisfied that the terms of the application are reasonable, having regard to—
(a) the nature of the institution's premises,
(b) the accommodation, equipment and facilities available, and
(c) the responsible body's financial resources.

Commencement

Sch. 12(1) para. 3(1)-(3)(c): October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(1) para. 3(1)-(3)(c): England, Wales, Scotland

PART 2

OTHER EXCEPTIONS

Law In Force

4 Occupational requirements

A person (P) does not contravene section 91(1) or (2) if P shows that P's treatment of another person relates only to training that would help fit that other person for work the offer of which the other person could be refused in reliance on Part 1 of Schedule 9.

Commencement

Sch. 12(2) para. 4: October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(2) para. 4: England, Wales, Scotland

Law In Force

5 Institutions with a religious ethos

(1) The responsible body of an institution which is designated for the purposes of this paragraph does not contravene section 91(1), so far as relating to religion or belief, if, in the admission of students to a course at the institution—
(a) it gives preference to persons of a particular religion or belief,
(b) it does so to preserve the institution's religious ethos, and
(c) the course is not a course of vocational training.

(2) A Minister of the Crown may by order designate an institution if satisfied that the institution has a religious ethos.

Commencement

Sch. 12(2) para. 5(1)-(2): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(2) para. 5-(2): England, Wales, Scotland

Law In Force

6 Benefits dependent on marital status, etc.

A person does not contravene section 91, so far as relating to sexual orientation, by providing married persons and civil partners (to the exclusion of all other persons) with access to a benefit, facility or service.

Commencement

Sch. 12(2) para. 6: October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(2) para. 6: England, Wales, Scotland

Law In Force

7 Child care

(1) A person does not contravene section 91(2)(b) or (d), so far as relating to age, only by providing, or making arrangements for or facilitating the provision of, care for children of a particular age group.

(2) Facilitating the provision of care for a child includes—

(a) paying for some or all of the cost of the provision;

(b) helping a parent of the child to find a suitable person to provide care for the child;

(c) enabling a parent of the child to spend more time providing care for the child or otherwise assisting the parent with respect to the care that the parent provides for the child.

(3) A child is a person who has not attained the age of 17.

(4) A reference to care includes a reference to supervision.

Commencement

Sch. 12(2) para. 7(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(h))

Extent

Sch. 12(2) para. 7(1)-(4): England, Wales, Scotland

SCHEDULE 13

EDUCATION: REASONABLE ADJUSTMENTS

Section 98

Preliminary

Law In Force

1

This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

Commencement

Sch. 13 para. 1: October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 1: England, Wales, Scotland

The duty for schools

Law In Force

2

(1) This paragraph applies where A is the responsible body of a school to which section 85 applies.

(2) A must comply with the first and third requirements.

(3) For the purposes of this paragraph—

(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;

(b) the reference in section 20(3) or (5) to a disabled person is—

(i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
(ii) in relation to a relevant matter within sub-paragraph (4)(b), a reference to disabled pupils generally.

(4) In relation to each requirement, the relevant matters are—
(a) deciding who is offered admission as a pupil;
(b) provision of education or access to a benefit, facility or service.

Commencement

Sch. 13 para. 2(1)-(4)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(6)(i)(i); September 1, 2012 otherwise (SI 2010/2317 art. 2(6)(i)(i); SI 2012/2184 art. 2(b))

Extent

Sch. 13 para. 2-(4)(b): England, Wales, Scotland

The duty for further or higher education institutions

Law In Force

3

(1) This paragraph applies where A is the responsible body of an institution to which section 91 applies.

(2) A must comply with the first, second and third requirements.

(3) For the purposes of this paragraph—
(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
(b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
(c) the reference in section 20(3), (4) or (5) to a disabled person is—
(i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
(ii) in relation to a relevant matter within sub-paragraph (4)(b) or (c), a reference to disabled students generally;
(iii) in relation to a relevant matter within sub-paragraph (4)(d) or (e) below, a reference to an interested disabled person.

(4) In relation to each requirement, the relevant matters are—
(a) deciding who is offered admission as a student;
(b) provision of education;
(c) access to a benefit, facility or service;
(d) deciding on whom a qualification is conferred;
(e) a qualification that A confers.

Commencement

Sch. 13 para. 3(1)-(4)(e): October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 3(1)-(4)(e): England, Wales, Scotland

Law In Force

4

(1) An interested disabled person is a disabled person who, in relation to a relevant matter specified in the first column of the table, is of a description specified in the second column.

Case	*Description of disabled person*
Deciding upon whom to confer a qualification.	A person who is, or has notified A that the person may be, an applicant for the conferment of the qualification.
A qualification that A confers.	An applicant for the conferment by A of the qualification.
	A person on whom A confers the qualification.

(2) A provision, criterion or practice does not include the application of a competence standard.

(3) A competence standard is an academic, medical or other standard applied for the purpose of determining whether or not a person has a particular level of competence or ability.

Commencement

Sch. 13 para. 4(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 4(1)-(3): England, Wales, Scotland

The duty relating to certain other further or higher education courses

Law In Force

5

(1) This paragraph applies where A is the responsible body in relation to a course to which section 92 applies.

(2) A must comply with the first, second and third requirements; but if A is the governing body of a maintained school (within the meaning given by that section), A is not required to comply with the second requirement.

(3) For the purposes of this paragraph—

(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
(b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
(c) the reference in section 20(3), (4) or (5) to a disabled person is—
(i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
(ii) in relation to a relevant matter within sub-paragraph (4)(b), a reference to disabled persons generally who are enrolled on the course.

(4) In relation to each requirement, the relevant matters are—
(a) arrangements for enrolling persons on a course of further or higher education secured by A;
(b) services provided by A for persons enrolled on the course.

Commencement

Sch. 13 para. 5(1)-(4)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(6)(i)(ii); September 1, 2012 otherwise (SI 2010/2317 art. 2(6)(i)(ii); SI 2012/2184 art. 2(b))

Extent

Sch. 13 para. 5-(4)(b): England, Wales, Scotland

The duty relating to recreational or training facilities

Law In Force

6

(1) This paragraph applies where A is the responsible body in relation to facilities to which section 93 applies.

(2) A must comply with the first, second and third requirements.

(3) For the purposes of this paragraph—
(a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
(b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
(c) the reference in section 20(3), (4) or (5) to a disabled person is a reference to disabled persons generally.

(4) In relation to each requirement, the relevant matter is A's arrangements for providing the recreational or training facilities.

Commencement

Sch. 13 para. 6(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 6(1)-(4): England, Wales, Scotland

Code of practice

Law In Force

7

In deciding whether it is reasonable for A to have to take a step for the purpose of complying with the first, second or third requirement, A must have regard to relevant provisions of a code of practice issued under section 14 of the Equality Act 2006.

Commencement

Sch. 13 para. 7: October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 7: England, Wales, Scotland

Confidentiality requests

Law In Force

8

(1) This paragraph applies if a person has made a confidentiality request of which A is aware.

(2) In deciding whether it is reasonable for A to have to take a step in relation to that person so as to comply with the first, second or third requirement, A must have regard to the extent to which taking the step is consistent with the request.

(3) In a case within paragraph 2, a “confidentiality request” is a request—

(a) that the nature or existence of a disabled person's disability be treated as confidential, and

(b) which satisfies either of the following conditions.

(4) The first condition is that the request is made by the person's parent.

(5) The second condition is that—

(a) it is made by the person, and

(b) A reasonably believes that the person has sufficient understanding of the nature and effect of the request.

(6) In a case within paragraph 3, a "confidentiality request" is a request by a disabled person that the nature or existence of the person's disability be treated as confidential.

Commencement

Sch. 13 para. 8(1)-(6): October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 8(1)-(6): England, Wales, Scotland

The duty for general qualifications bodies

Law In Force

9

(1) This paragraph applies where A is a qualifications body for the purposes of section 96.

(2) Paragraphs 3 and 4(1), so far as relating to qualifications, apply to a qualifications body as they apply to a responsible body.

(3) This paragraph is subject to section 96(7).

Commencement

Sch. 13 para. 9(1)-(3): October 1, 2010 (SI 2010/2317 art. 2(6)(i))

Extent

Sch. 13 para. 9(1)-(3): England, Wales, Scotland

SCHEDULE 14

EDUCATIONAL CHARITIES AND ENDOWMENTS

Section 99

Law In Force

1 Educational charities

(1) This paragraph applies to a trust deed or other instrument—

(a) which concerns property applicable for or in connection with the provision of education in an establishment in England and Wales to which section 85 or 91 applies, and

(b) which in any way restricts the benefits available under the instrument to persons of one sex.

(2) Sub-paragraph (3) applies if, on the application of the trustees or the responsible body (within the meaning of that section), a Minister of the Crown is satisfied that the removal or modification of the restriction would be conducive to the advancement of education without sex discrimination.

(3) The Minister may by order make such modifications of the instrument as appear to the Minister expedient for removing or modifying the restriction.

(4) If the trust was created by a gift or bequest, an order must not be made until the end of the period of 25 years after the date when the gift or bequest took effect.

(5) Sub-paragraph (4) does not apply if the donor or the personal representatives of the donor or testator consent in writing to making the application for the order.

(6) The Minister must require the applicant to publish a notice—

(a) containing particulars of the proposed order;

(b) stating that representations may be made to the Minister within a period specified in the notice.

(7) The period must be not less than one month beginning with the day after the date of the notice.

(8) The applicant must publish the notice in the manner specified by the Minister.

(9) The cost of publication may be paid out of the property of the trust.

(10) Before making the order, the Minister must take account of representations made in accordance with the notice.

Commencement

Sch. 14 para. 1(1)-(10): October 1, 2010 (SI 2010/2317 art. 2(6)(j))

Extent

Sch. 14 para. 1(1)-(10): England, Wales, Scotland

Law In Force

2 Educational endowments

(1) This paragraph applies to an educational endowment—

(a) to which section 104 of the Education (Scotland) Act 1980 applies, and

(b) which in any way restricts the benefit of the endowment to persons of one sex.

(2) Sub-paragraph (3) applies if, on the application of the governing body of an educational endowment, the Scottish Ministers are satisfied that the removal or modification of the provision which restricts the benefit of the endowment to persons of one sex would be conducive to the advancement of education without sex discrimination.

(3) The Scottish Ministers may by order make such provision as they think expedient for removing or modifying the restriction.

(4) If the Scottish Ministers propose to make such an order they must publish a notice in such manner as they think sufficient for giving information to persons they think may be interested in the endowment—

(a) containing particulars of the proposed order;

(b) stating that representations may be made with respect to the proposal within such period as is specified in the notice.

(5) The period must be not less than one month beginning with the day after the date of publication of the notice.

(6) The cost of publication is to be paid out of the funds of the endowment to which the notice relates.

(7) Before making an order, the Scottish Ministers—

(a) must consider representations made in accordance with the notice;

(b) may cause a local inquiry to be held into the representations under section 67 of the Education (Scotland) Act 1980.

(8) A reference to an educational endowment includes a reference to—

(a) a scheme made or approved for the endowment under Part 6 of the Education (Scotland) Act 1980;

(b) in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for the endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);

(c) an endowment which is, by virtue of section 108(1) of the Education (Scotland) Act 1980, treated as if it were an educational endowment (or which would, but for the disapplication of that section by section 122(4) of that Act, be so treated);

(d) a university endowment, the Carnegie Trust, a theological endowment and a new endowment.

(9) Expressions used in this paragraph and in Part 6 of the Education (Scotland) Act 1980 have the same meaning in this paragraph as in that Part.

Commencement

Sch. 14 para. 2(1)-(9): October 1, 2010 (SI 2010/2317 art. 2(6)(j))

Extent

Sch. 14 para. 2(1)-(9): England, Wales, Scotland

SCHEDULE 15

ASSOCIATIONS: REASONABLE ADJUSTMENTS

Section 107

Law In Force

1 Preliminary

This Schedule applies where a duty to make reasonable adjustments is imposed on an association (A) by this Part.

Commencement

Sch. 15 para. 1: October 1, 2010 (SI 2010/2317 art. 2(7)(c))

Extent

Sch. 15 para. 1: England, Wales, Scotland

Law In Force

2 The duty

(1) A must comply with the first, second and third requirements.

(2) For the purposes of this paragraph, the reference in section 20(3), (4) or (5) to a disabled person is a reference to disabled persons who—

(a) are, or are seeking to become or might wish to become, members,
(b) are associates, or
(c) are, or are likely to become, guests.

(3) Section 20 has effect as if, in subsection (4), for "to avoid the disadvantage" there were substituted—

"(a) to avoid the disadvantage, or
(b) to adopt a reasonable alternative method of affording access to the benefit, facility or service or of admitting persons to membership or inviting persons as guests."

(4) In relation to the first and third requirements, the relevant matters are—

(a) access to a benefit, facility or service;
(b) members' or associates' retaining their rights as such or avoiding having them varied;
(c) being admitted to membership or invited as a guest.

(5) In relation to the second requirement, the relevant matters are—

(a) access to a benefit, facility or service;
(b) being admitted to membership or invited as a guest.

(6) In relation to the second requirement, a physical feature includes a physical feature brought by or on behalf of A, in the course of or for the purpose of providing a benefit, facility or service, on to premises other than those that A occupies (as well as including a physical feature in or on premises that A occupies).

(7) Nothing in this paragraph requires A to take a step which would fundamentally alter—

(a) the nature of the benefit, facility or service concerned, or
(b) the nature of the association.

(8) Nor does anything in this paragraph require a member or associate in whose house meetings of the association take place to make adjustments to a physical feature of the house.

Commencement

Sch. 15 para. 2(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(7)(c))

Extent

Sch. 15 para. 2(1)-(8): England, Wales, Scotland

SCHEDULE 16

ASSOCIATIONS: EXCEPTIONS

Section 107

Law In Force

1 Single characteristic associations

(1) An association does not contravene section 101(1) by restricting membership to persons who share a protected characteristic.

(2) An association that restricts membership to persons who share a protected characteristic does not breach section 101(3) by restricting the access by associates to a benefit, facility or service to such persons as share the characteristic.

(3) An association that restricts membership to persons who share a protected characteristic does not breach section 102(1) by inviting as guests, or by permitting to be invited as guests, only such persons as share the characteristic.

(4) Sub-paragraphs (1) to (3), so far as relating to race, do not apply in relation to colour.

(5) This paragraph does not apply to an association that is a registered political party.

Commencement

Sch. 16 para. 1(1)-(5): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(d); SI 2012/1569 art. 3(e))

Extent

Sch. 16 para. 1-(5): England, Wales, Scotland

Law In Force

[1A.— Age

(1) An association does not contravene section 101(1) or (2), so far as relating to age discrimination, by giving a concession on admission to membership for—

(a) persons of a particular age group, or

(b) persons who have been members of the association for more than a number of years specified by the association for this purpose.

(2) An association does not contravene section 101(2) or (3), so far as relating to age discrimination, by giving a concession on access to a benefit, facility or service for—

(a) members of a particular age group, or

(b) persons who have been members of the association for more than a number of years specified by the association for this purpose.

(3) An association does not contravene section 102(1), so far as relating to age discrimination, by giving a concession on invitations of persons of a particular age group as guests.

(4) An association does not contravene section 102(2), so far as relating to age discrimination, by giving a concession on access to a benefit, facility or service for guests of a particular age group.

(5) For the purposes of this paragraph, affording only persons of a particular age group access to a benefit, facility or service for a limited time is to be regarded as a concession.

(6) The reference to a concession in respect of something done by an association is a reference to a benefit, right or privilege having the effect that the manner in which, or the terms on which, it does it are more favourable than the manner in which, or the terms on which, it usually does the thing.

] [1]

Notes

[1] Added by Equality Act 2010 (Age Exceptions) Order 2012/2466 art.8 (October 1, 2012)

Extent

Sch. 16 para. 1A(1)-(6): England, Wales, Scotland

Law In Force

2 Health and safety

(1) An association (A) does not discriminate against a pregnant woman in contravention of section 101(1)(b) because she is pregnant if—

(a) the terms on which A is prepared to admit her to membership include a term intended to remove or reduce a risk to her health or safety,

(b) A reasonably believes that admitting her to membership on terms which do not include that term would create a risk to her health or safety,

(c) the terms on which A is prepared to admit persons with other physical conditions to membership include a term intended to remove or reduce a risk to their health or safety, and

(d) A reasonably believes that admitting them to membership on terms which do not include that term would create a risk to their health or safety.

(2) Sub-paragraph (1) applies to section 102(1)(b) as it applies to section 101(1)(b); and for that purpose a reference to admitting a person to membership is to be read as a reference to inviting the person as a guest or permitting the person to be invited as a guest.

(3) An association (A) does not discriminate against a pregnant woman in contravention of section 101(2)(a) or (3)(a) or 102(2)(a) because she is pregnant if—

(a) the way in which A affords her access to a benefit, facility or service is intended to remove or reduce a risk to her health or safety,

(b) A reasonably believes that affording her access to the benefit, facility or service otherwise than in that way would create a risk to her health or safety,

(c) A affords persons with other physical conditions access to the benefit, facility or service in a way that is intended to remove or reduce a risk to their health or safety, and

(d) A reasonably believes that affording them access to the benefit, facility or service otherwise than in that way would create a risk to their health or safety.

(4) An association (A) which does not afford a pregnant woman access to a benefit, facility or service does not discriminate against her in contravention of section 101(2)(a) or (3)(a) or 102(2)(a) because she is pregnant if—

(a) A reasonably believes that affording her access to the benefit, facility or service would, because she is pregnant, create a risk to her health or safety,

(b) A does not afford persons with other physical conditions access to the benefit, facility or service, and

(c) the reason for not doing so is that A reasonably believes that affording them access to the benefit, facility or service would create a risk to their health or safety.

(5) An association (A) does not discriminate against a pregnant woman under section 101(2)(c) or (3)(c) because she is pregnant if—

(a) the variation of A's terms of membership, or rights as an associate, is intended to remove or reduce a risk to her health or safety,

(b) A reasonably believes that not making the variation to A's terms or rights would create a risk to her health or safety,

(c) A varies the terms of membership, or rights as an associate, of persons with other physical conditions,

(d) the variation of their terms or rights is intended to remove or reduce a risk to their health or safety, and

(e) A reasonably believes that not making the variation to their terms or rights would create a risk to their health or safety.

Commencement

Sch. 16 para. 2(1)-(5)(e): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(7)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(7)(d); SI 2012/1569 art. 3(e))

Extent

Sch. 16 para. 2-(5)(e): England, Wales, Scotland

SCHEDULE 17

DISABLED PUPILS: ENFORCEMENT

Section 116

PART 1

INTRODUCTORY

Law In Force

1

In this Schedule—

"the Tribunal" means—

(a) in relation to a school in England, the First-tier Tribunal;

(b) in relation to a school in Wales, the [Education Tribunal for Wales] [1] ;

(c) in relation to a school in Scotland, [the First-tier Tribunal for Scotland] [2] ;

"the English Tribunal" means the First-tier Tribunal;

"the Welsh Tribunal" means the [Education Tribunal for Wales] [3] ;

"the Scottish Tribunal" means [the First-tier Tribunal for Scotland] [2] ;

"responsible body" is to be construed in accordance with section 85.

Notes

[1] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(a)(i) (September 1, 2021)

[2] Words substituted by First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018/4 (Scottish SI) Sch.2(1) para.4(4)(a) (January 12, 2018 and has effect subject to transitional provisions and savings specified in SSI 2018/4 reg.4 and Sch.1)

[3] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(a)(ii) (September 1, 2021)

Commencement

Sch. 17(1) para. 1 definition of "the Tribunal"- definition of "responsible body": July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(1) para. 1- definition of "responsible body": England, Wales, Scotland

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PART 2

TRIBUNALS IN ENGLAND AND WALES

Law In Force

2 Introductory

This Part of this Schedule applies in relation to the English Tribunal and the Welsh Tribunal.

Commencement

Sch. 17(2) para. 2: October 1, 2010 (SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(2) para. 2: England, Wales, Scotland

Law In Force

3 Jurisdiction [— England […][2]][1]

A claim that a responsible body [in England][3] has contravened Chapter 1 of Part 6 because of a person's disability may be made [—][4]

[(a) to the English Tribunal by the person's parent or, if the person is over compulsory school age, the person [.][5]

(b) […][5]

][4]

Notes

1 Words inserted by Education (Wales) Measure 2009 c. 05 Pt 1 s.9 (March 6, 2012: commenced by an amendment)

2 Words repealed by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(b) (September 1, 2021)

3 Words inserted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(c)(i) (September 1, 2021)

4 Sch.17 para.3(a)-(b) substituted for words by Children and Families Act 2014 c. 6 Pt 3 s.60 (September 1, 2014)

5 Repealed by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(c)(ii) (September 1, 2021)

Commencement

Sch. 17(2) para. 3: October 1, 2010 (SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(2) para. 3(a)-(b): England, Wales, Scotland

Law In Force

[3A Jurisdiction — Wales

(1) A claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability may be made to the Tribunal by **[—]** [2]

[(a) the person (including a child not over compulsory school age), or

(b) if the person is a child not over compulsory school age, the person's parent. **]** [2]

(2) But this paragraph does not apply to a claim to which paragraph 13 or 14 applies.

(3) **[…]**[3]

(4) The exercise of rights under this paragraph is subject to provision made by regulations under **[** paragraphs 6 and 6A(7) **]** [4] .
] [1]

Notes

1 Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.9 (March 6, 2012: commenced by an amendment)

2 Subsections (a) and (b) substituted for words by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(d)(i) (September 1, 2021)

3 Repealed by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(d)(ii) (September 1, 2021)

4 Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(d)(iii) (September 1, 2021)

Extent

Sch. 17(2) para. 3A(1)-(3): England, Wales, Scotland

Law In Force

4 Time for bringing proceedings

(1) Proceedings on a claim may not be brought after the end of the period of 6 months starting with the date when the conduct complained of occurred.

(2) **[…]**[1]

[(2A) If, in relation to proceedings or prospective proceedings on a claim under paragraph 3 or 3A, the dispute is referred for resolution in pursuance of arrangements under paragraph 6C**[…]**[3] before the end of the period of 6 months mentioned in sub-paragraph (1), that period is extended by 3 months. **]** [2]

(3) The Tribunal may consider a claim which is out of time.

(4) Sub-paragraph (3) does not apply if the Tribunal has previously decided under that sub-paragraph not to consider a claim.

(5) For the purposes of sub-paragraph (1)—

(a) if the contravention is attributable to a term in a contract, the conduct is to be treated as extending throughout the duration of the contract;

(b) conduct extending over a period is to be treated as occurring at the end of the period;

(c) failure to do something is to be treated as occurring when the person in question decided on it.

(6) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P acts inconsistently with doing it, or

(b) if P does not act inconsistently, on the expiry of the period in which P might reasonably have been expected to do it.

Notes

[1] Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.64(14)(a) (June 25, 2013)

[2] Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.10 (March 6, 2012: commenced by an amendment)

[3] Words repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Pt 5 s.64(14)(b) (June 25, 2013)

Commencement

Sch. 17(2) para. 4(1)-(6)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(2) para. 4(1)-(6)(b): England, Wales, Scotland

Law In Force

5 Powers

(1) This paragraph applies if the Tribunal finds that the contravention has occurred.

(2) The Tribunal may make such order as it thinks fit.

(3) The power under sub-paragraph (2)—

(a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;

(b) does not include power to order the payment of compensation.

Commencement

Sch. 17(2) para. 5(1)-(3)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(2) para. 5(1)-(3)(b): England, Wales, Scotland

Law In Force

6 Procedure

(1) This paragraph applies in relation to the Welsh Tribunal.

(2) The Welsh Ministers may by regulations make provision as to—

(a) the proceedings on a claim under [paragraph 3A][1];

(b) the making of a claim.

(3) The regulations may, in particular, include provision—

(a) as to the manner in which a claim must be made;

(b) for enabling functions relating to preliminary or incidental matters (including in particular a decision under paragraph 4(3) to be performed by the President or by the person occupying the chair);

(c) enabling hearings to be conducted in the absence of a member other than the person occupying the chair;

[(ca) for adding and substituting parties; **]** [2]

(d) as to persons who may appear on behalf of the parties;

(e) for granting such rights to disclosure or inspection of documents or to further particulars as may be granted by the county court;

(f) requiring persons to attend to give evidence and produce documents;

(g) for authorising the administration of oaths to witnesses;

(h) for deciding claims without a hearing in prescribed circumstances;

(i) as to the withdrawal of claims;

(j) for enabling the Tribunal to stay proceedings;

(k) for the award of costs or expenses;

(l) for settling costs or expenses (and, in particular, for enabling costs to be assessed in the county court);

(m) for the registration and proof of decisions and orders;

(n) for enabling prescribed decisions to be reviewed, or prescribed orders to be varied or revoked, in such circumstances as may be decided in accordance with the regulations.

(4) Proceedings must be held in private, except in prescribed circumstances.

(5) The Welsh Ministers may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as they may decide.

(6) Part 1 of the Arbitration Act 1996 does not apply to the proceedings, but regulations may make provision in relation to such proceedings that corresponds to a provision of that Part.

(7) The regulations may make provision for a claim to be heard, in prescribed circumstances, with an appeal under **[** Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 **]** [3] .

(8) A person commits an offence by failing to comply with—

(a) a requirement in respect of the disclosure or inspection of documents imposed by virtue of sub-paragraph (3)(e), or

(b) a requirement imposed by virtue of sub-paragraph (3)(f).

(9) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Notes

[1] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(e)(i) (September 1, 2021)

[2] Amended by Education (Wales) Measure 2009 c. 05 Pt 1 s.11 (February 10, 2012: commenced by an amendment)

[3] Words substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(e)(ii) (September 1, 2021 for purposes specified in SI 2021/373 art.3; September 1, 2021 for purposes specified in SI 2021/373 art.6; not yet in force otherwise)

Commencement

Sch. 17(2) para. 6(1)-(7): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(9)(k)(i))

Sch. 17(2) para. 6(8)-(9): October 1, 2010 (SI 2010/2317 art. 2(9)(k)(i))

Extent

Sch. 17(2) para. 6(1)-(9): England, Wales, Scotland

Law In Force

[6AA.— Appeals from the Welsh Tribunal

(1) A party to any proceedings on a claim under paragraph (3A) before the Welsh Tribunal may appeal to the Upper Tribunal on any point of law arising from a decision made by the Welsh Tribunal in those proceedings.

(2) An appeal may be brought under sub-paragraph (1) only if, on an application made by the party concerned, the Welsh Tribunal or the Upper Tribunal has given its permission.

(3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this paragraph as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Welsh Tribunal.
] [1]

Notes

[1] Added by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(f) (September 1, 2021)

Extent

Sch. 17(2) para. 6AA(1)-(3): Wales

Law In Force

[6A.— Case friends — Wales

(1) This paragraph applies to a child not over compulsory school age who—
- (a) has the right to make a claim under paragraph 3A, and
- (b) lacks the capacity to understand what it means to exercise that right.

(2) The Education Tribunal for Wales may by order—
- (a) appoint a person to be a case friend for a child to whom this section applies, or
- (b) remove the person from being a case friend for the child,

on the application of any person or on its own initiative, subject to provision in regulations under sub-paragraph (7).

(3) A case friend appointed for a child under this paragraph may—

(a) represent and support the child, and
(b) take decisions and act on behalf of the child,

in respect of matters arising under or by virtue of this Schedule, subject to provision in regulations under sub-paragraph (7).

(4) Where a person is appointed to be a case friend by order of the Tribunal under this paragraph, the right of a child to make a claim under paragraph 3A is to be exercised by the case friend on behalf of the child.

(5) A case friend appointed under this paragraph must—
(a) act fairly and competently,
(b) not have any interest adverse to that of the child,
(c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
(d) take account of the child's views, so far as possible.

(6) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in sub-paragraph (5).

(7) The Welsh Ministers may by regulations make further provision about case friends, including (among other things) provision—
(a) conferring functions on the Education Tribunal for Wales;
(b) conferring functions on case friends;
(c) for procedures in relation to case friends;
(d) specifying the circumstances in which a person may or may not act as a case friend;
(e) specifying the circumstances in which a child must have a case friend;
(f) specifying requirements in respect of the conduct of case friends;
(g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Schedule.

] [1]

Notes

[1] Substituted by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(g) (September 1, 2021: 2018 anaw 2 Sch.1 para.19(5)(g) came into force on November 2, 2020 as specified in SI 2020/1182 art.3(1)(e) for the limited purpose of making regulations; September 1, 2021 as specified in SI 2021/373 art.8(j)(xxxiii) otherwise)

Extent

Sch. 17(2) para. 6A(1)-(7)(g): Wales

Law In Force

[6B Advice and information — Wales

(1) A local authority in Wales must arrange for any disabled child in its area and for the case friend of any such child to be provided with advice and information about matters relating to disability discrimination in schools.

(2) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

(3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(4) The local authority must take such steps as it considers appropriate for making the services provided under sub-paragraph (1) known to—

(a) disabled children in its area,
(b) parents of disabled children in its area,
(c) head teachers and proprietors of schools in its area, and
(d) such other persons as it considers appropriate.

] [1]

Notes

[1] Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.13 (March 6, 2012: commenced by an amendment)

Extent

Sch. 17(2) para. 6B(1)-(4)(d): England, Wales, Scotland

Law In Force

[6C Resolution of disputes — Wales

(1) A local authority in Wales must make arrangements with a view to avoiding or resolving disagreements between responsible bodies and disabled children in its area about contraventions of Chapter 1 of Part 6.

(2) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.

(3) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(5) The local authority must take such steps as it considers appropriate for making the arrangements under sub-paragraph (1) known to—

(a) disabled children in its area,
(b) parents of disabled children in its area,
(c) head teachers and proprietors of schools in its area, and
(d) such other persons as it considers appropriate.

(6) The arrangements cannot affect the entitlement of any person to make a claim to the Tribunal, and the local authority must take such steps as it considers appropriate to make that fact known to disabled children, to parents of disabled children and to case friends for disabled children in its area.
] [1]

Notes

[1] Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.14 (March 6, 2012: commenced by an amendment)

Extent

Sch. 17(2) para. 6C(1)-(6): England, Wales, Scotland

Law In Force

[6D Independent advocacy services — Wales

(1) Every local authority in Wales must—

(a) make arrangements for the provision of independent advocacy services in its area;

(b) refer any disabled child in its area who requests independent advocacy services to a service provider;

(c) refer any person who is a case friend for a disabled child in its area and who requests independent advocacy services to a service provider.

(2) In this paragraph "independent advocacy services" are services providing advice and assistance (by way of representation or otherwise) to a disabled child who is—

(a) making, or intending to make a claim that a responsible body has contravened Chapter 1 of Part 6 because of the child's disability; or

(b) considering whether to make such a claim; or

(c) taking part in or intending to take part in dispute resolution arrangements made under paragraph 6C.

(3) In making arrangements under this paragraph, every local authority must have regard to the principle that any services provided under the arrangements must be independent of any person who is—

(a) the subject of a claim to the Tribunal, or

(b) involved in investigating or adjudicating on such a claim.

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(5) Every local authority in Wales must take such steps as it considers appropriate for making the arrangements under this paragraph known to—

(a) disabled children in its area,

(b) parents of disabled children in its area,

(c) head teachers and proprietors of schools in its area, and

(d) such other persons as it considers appropriate.

(6) The arrangements may include provision for payments to be made to, or in relation to, any person carrying out functions in accordance with the arrangements.

(7) A local authority must have regard to any guidance given from time to time by the Welsh Ministers.
] [1]

Notes

[1] Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.15 (March 6, 2012: commenced by an amendment)

Extent

Sch. 17(2) para. 6D(1)-(7): England, Wales, Scotland

Law In Force

[6E Power of direction — Wales

(1) If the Welsh Ministers are satisfied (whether on a complaint or otherwise) that a local authority—

(a) has acted, or is proposing to act, unreasonably in the discharge of a duty imposed by or under paragraph 6B, 6C or 6D, or

(b) has failed to discharge a duty imposed by or under any of those paragraphs,

they may give that local authority such directions as to the discharge of the duty as appear to them to be expedient.

(2) A direction may be given under sub-paragraph (1) even if the performance of the duty is contingent on the opinion of the local authority.

(3) A direction—

(a) may be varied or revoked by the Welsh Ministers;

(b) may be enforced, on the application of the Welsh Ministers, by a mandatory order obtained in accordance with section 31 of the Senior Courts Act 1981.

] [1]

Notes

[1] Added by Education (Wales) Measure 2009 c. 05 Pt 1 s.16 (March 6, 2012: commenced by an amendment)

Extent

Sch. 17(2) para. 6E(1)-(3)(b): England, Wales, Scotland

Law In Force

[6F.— Capacity of parents and persons over compulsory school age - Wales

(1) The Welsh Ministers must make regulations for the purpose of a claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability in a case to which sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies where the person is a child not over compulsory school age and the parent of the person lacks capacity at the relevant time.

(3) This sub-paragraph applies where the person is over compulsory school age and lacks capacity at the relevant time.

(4) Regulations under sub-paragraph (1) may include provision applying any enactment with modifications, including (for example) provision for modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf).

(5) In this paragraph "the relevant time" means the time at which, under this Act, something is required or permitted to be done by or in relation to a parent or a person over compulsory school age.

(6) The reference in this paragraph to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.

(7) "Representative", in relation to a parent or a person over compulsory school age, means—

(a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent's or person's behalf in relation to matters within this Schedule;

(b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or person to make decisions on his or her behalf in relation to matters within this Schedule;

(c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.

] [1]

Notes

[1] Added by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch.1 para.19(5)(h) (September 10, 2021: 2018 anaw 2 Sch.1 para.19(5)(h) came into force on November 2, 2020 as specified in SI 2020/1182 art.3(1)(e) for the limited purpose of making regulations; September 1, 2021 as specified in SI 2021/373 art.8(j)(xxxiii) otherwise)

Extent

Sch. 17(2) para. 6F(1)-(7)(c): Wales

PART 3

TRIBUNALS IN SCOTLAND

Law In Force

7 Introductory

This Part of this Schedule applies in relation to the Scottish Tribunal.

Commencement

Sch. 17(3) para. 7: October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(k)(ii); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(k)(ii), art. 3(d))

Extent

Sch. 17(3) para. 7: England, Wales, Scotland

Law In Force

8 Jurisdiction

A claim that a responsible body has contravened Chapter 1 of Part 6 because of a person's disability may be made to the Tribunal by—

(a) the person's parent;

(b) where the person has capacity to make the claim, the person.

Commencement

Sch. 17(3) para. 8(a)-(b): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(k)(ii); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(k)(ii), art. 3(d))

Extent

Sch. 17(3) para. 8-(b): England, Wales, Scotland

Law In Force

9 Powers

(1) This paragraph applies if the Tribunal finds the contravention has occurred.

(2) The Tribunal may make such order as it thinks fit.

(3) The power under sub-paragraph (2)—

(a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;

(b) does not include power to order the payment of compensation.

Commencement

Sch. 17(3) para. 9(1)-(3)(b): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(k)(ii); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(k)(ii), art. 3(d))

Extent

Sch. 17(3) para. 9-(3)(b): England, Wales, Scotland

Law In Force

10 Procedure etc.

(1) The Scottish Ministers may make rules as to—

(a) the proceedings on a claim under paragraph 8;

(b) the making of a claim.

(2) The rules may, in particular, include provision for or in connection with—

(a) the form and manner in which a claim must be made;

(b) the time within which a claim is to be made;

(c) the withdrawal of claims;

(d) the recovery and inspection of documents;

(e) the persons who may appear on behalf of the parties;

(f) the persons who may be present at proceedings alongside any party or witness to support the party or witness;

(g) enabling specified persons other than the parties to appear or be represented in specified circumstances;

(h) requiring specified persons to give notice to other specified persons of specified matters;

(i) the time within which any such notice must be given;

(j) enabling Tribunal proceedings to be conducted in the absence of any member of a Tribunal other than the convener;

(k) enabling any matters that are preliminary or incidental to the determination of proceedings to be determined by the convenor of a Tribunal alone or with such other members of the Tribunal as may be specified;

(l) enabling Tribunals to be held in private;

(m) enabling a Tribunal to exclude any person from attending all or part of Tribunal proceedings;

(n) enabling a Tribunal to impose reporting restrictions in relation to all or part of Tribunal proceedings;

(o) enabling a Tribunal to determine specified matters without holding a hearing;

(p) the recording and publication of decisions and orders of a Tribunal;

(q) enabling a Tribunal to commission medical and other reports in specified circumstances;

(r) requiring a Tribunal to take specified actions, or to determine specified proceedings, within specified periods;

(s) enabling a Tribunal to make an award of expenses;

(t) the taxation or assessment of such expenses;

(u) enabling a Tribunal, in specified circumstances, to review, or to vary or revoke, any of its decisions, orders or awards;

(v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.

Commencement

Sch. 17(3) para. 10(1)-(2)(v): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(k)(ii); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(k)(ii), art. 3(d))

Extent

Sch. 17(3) para. 10-(2)(v): England, Wales, Scotland

Repealed

11 […][1]

Notes

[1] Repealed by First-tier Tribunal for Scotland (Transfer of Functions of the Additional Support Needs Tribunals for Scotland) Regulations 2018/4 (Scottish SI) Sch.2(1) para.4(4)(b) (January 12, 2018 and has effect subject to transitional provisions and savings specified in SSI 2018/4 reg.4 and Sch.1)

Law In Force

12 Amendment of Education (Additional Support for Learning) (Scotland) Act 2004

The Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) is amended as follows—

(a) in section 17(1), omit "to exercise the functions which are conferred on a Tribunal by virtue of this Act";

(b) after section 17(1), insert—

"(1A) Tribunals are to exercise the functions which are conferred on them by virtue of—

(a) this Act, and

(b) the Equality Act 2010";

(c) in the definition of "Tribunal functions" in paragraph 1 of Schedule 1, after "Act" insert "or the Equality Act 2010".

Commencement

Sch. 17(3) para. 12(a)-(c): October 1, 2010 for the purpose specified in SI 2010/2317 art.2(9)(k)(ii); March 18, 2011 otherwise (SI 2010/2317 art. 2(9)(k)(ii), art. 3(d))

Extent

Sch. 17(3) para. 12-(c): England, Wales, Scotland

PART 4

ADMISSIONS AND EXCLUSIONS

Law In Force

13 Admissions

(1) This paragraph applies if appeal arrangements have been made in relation to admissions decisions.

(2) A claim that a responsible body has, because of a person's disability, contravened Chapter 1 of Part 6 in respect of an admissions decision must be made under the appeal arrangements.

(3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.

(4) Appeal arrangements are arrangements under—

(a) section 94 of the School Standards and Framework Act 1998, or

[(b) Academy arrangements (as defined in section 1 of the Academies Act 2010) between the responsible body for an Academy and the Secretary of State, **]** [1]

enabling an appeal to be made by the person's parent against the decision.

(5) An admissions decision is—

(a) a decision of a kind mentioned in section 94(1) or (2) of the School Standards and Framework Act 1998;

(b) a decision as to the admission of a person to an **[** Academy school or an alternative provision Academy **]** [2] taken by the responsible body or on its behalf.

Notes

[1] Substituted by Education Act 2011 c. 21 Sch.15 para.2 (February 1, 2012)

[2] Word substituted by Education Act 2011 c. 21 Sch.13 para.20(4) (April 1, 2012)

Commencement

Sch. 17(4) para. 13(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(9)(k)(iii))

Extent

Sch. 17(4) para. 13(1)-(5)(b): England, Wales, Scotland

Law In Force

14 Exclusions **[** : Wales **]** [1]

(1) This paragraph applies if appeal arrangements have been made in relation to exclusion decisions **[** that are made in relation to schools in Wales **]** [2] .

(2) A claim that a responsible body has, because of a person's disability, contravened Chapter 1 of Part 6 in respect of an exclusion decision must be made under the appeal arrangements.

(3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.

[(4) Appeal arrangements are arrangements under section 52(3) of the Education Act 2002 enabling an appeal to be made against an exclusion decision. **]** [3]

(5) An exclusion decision is—

(a) a decision of a kind mentioned in 52(3) of the Education Act 2002 **[.]** [4]

(b) **[…]**[4]

(6) "Responsible body", in relation to a maintained school, includes the discipline committee of the governing body if that committee is required to be established as a result of regulations made under section 19 of the Education Act 2002.

(7) "Maintained school" has the meaning given in section 20(7) of the School Standards and Framework Act 1998.

Notes

1 Word inserted by Education Act 2011 c. 21 Sch.1 para.12 (September 1, 2012 subject to transitional and savings provision specified in SI 2012/1087 art.4)

2 Words inserted by Education Act 2011 c. 21 Sch.1 para.13(a) (September 1, 2012 subject to transitional and savings provision specified in SI 2012/1087 art.4)

3 Substituted by Education Act 2011 c. 21 Sch.1 para.13(b) (September 1, 2012 subject to transitional and savings provision specified in SI 2012/1087 art.4)

4 Repealed by Education Act 2011 c. 21 Sch.1 para.13(c) (September 1, 2012 subject to transitional and savings provision specified in SI 2012/1087 art.4)

Commencement

Sch. 17(4) para. 14(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(9)(k)(iii))

Extent

Sch. 17(4) para. 14(1)-(7): England, Wales, Scotland

SCHEDULE 18

PUBLIC SECTOR EQUALITY DUTY: EXCEPTIONS

Section 149

Law In Force

1 Children

(1) Section 149, so far as relating to age, does not apply to the exercise of a function relating to—

(a) the provision of education to pupils in schools;

(b) the provision of benefits, facilities or services to pupils in schools;

(c) the provision of accommodation, benefits, facilities or services in community homes pursuant to section 53(1) of the Children Act 1989;

(d) the provision of accommodation, benefits, facilities or services pursuant to arrangements under section 82(5) of that Act (arrangements by the Secretary of State relating to the accommodation of children);

(e) the provision of accommodation, benefits, facilities or services in residential establishments pursuant to section 26(1)(b) of the Children (Scotland) Act 1995.

(2) "Pupil" and "school" each have the same meaning as in Chapter 1 of Part 6.

Commencement

Sch. 18 para. 1(1)-(2): April 5, 2011 (SI 2011/1066 art. 2(f))

Extent

Sch. 18 para. 1(1)-(2): England, Wales, Scotland

Law In Force

2 Immigration

(1) In relation to the exercise of immigration and nationality functions, section 149 has effect as if subsection (1)(b) did not apply to the protected characteristics of age, race or religion or belief; but for that purpose "race" means race so far as relating to—

(a) nationality, or

(b) ethnic or national origins.

(2) "Immigration and nationality functions" means functions exercisable by virtue of—

(a) the Immigration Acts (excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to criminal offences),

(b) the British Nationality Act 1981,

(c) the British Nationality (Falkland Islands) Act 1983,

(d) the British Nationality (Hong Kong) Act 1990,

(e) the Hong Kong (War Wives and Widows) Act 1996,

(f) the British Nationality (Hong Kong) Act 1997,

(g) the Special Immigration Appeals Commission Act 1997, or

(h) **[** anything which forms part of retained EU law by virtue of section 2(2)(a), 3 or 4 of the European Union (Withdrawal) Act 2018 and **]**[1] relates to the subject matter of an enactment within paragraphs (a) to (g).

Notes

[1] Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(8) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 18 para. 2(1)-(2)(h): April 5, 2011 (SI 2011/1066 art. 2(f))

Extent

Sch. 18 para. 2(1)-(2)(h): England, Wales, Scotland

Law In Force

3 Judicial functions, etc.

(1) Section 149 does not apply to the exercise of—

(a) a judicial function;

(b) a function exercised on behalf of, or on the instructions of, a person exercising a judicial function.

(2) The references to a judicial function include a reference to a judicial function conferred on a person other than a court or tribunal.

Commencement

Sch. 18 para. 3(1)-(2): April 5, 2011 (SI 2011/1066 art. 2(f))

Extent

Sch. 18 para. 3(1)-(2): England, Wales, Scotland

Law In Force

4 Exceptions that are specific to section 149(2)

(1) Section 149(2) (application of section 149(1) to persons who are not public authorities but by whom public functions are exercisable) does not apply to—

(a) a person listed in sub-paragraph (2);

(b) the exercise of a function listed in sub-paragraph (3).

(2) Those persons are—

(a) the House of Commons;

(b) the House of Lords;

(c) the Scottish Parliament;

(d) the National Assembly for Wales;

(e) the General Synod of the Church of England;

(f) the Security Service;

(g) the Secret Intelligence Service;

(h) the Government Communications Headquarters;

(i) a part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

(3) Those functions are—

(a) a function in connection with proceedings in the House of Commons or the House of Lords;

(b) a function in connection with proceedings in the Scottish Parliament (other than a function of the Scottish Parliamentary Corporate Body);

(c) a function in connection with proceedings in the National Assembly for Wales (other than a function of the Assembly Commission).

Commencement

Sch. 18 para. 4(1)-(3)(c): April 5, 2011 (SI 2011/1066 art. 2(f))

Extent

Sch. 18 para. 4(1)-(3)(c): England, Wales, Scotland

Law In Force

5 Power to amend Schedule

(1) A Minister of the Crown may by order amend this Schedule so as to add, vary or omit an exception to section 149.

(2) But provision by virtue of sub-paragraph (1) may not amend this Schedule—

(a) so as to omit an exception in paragraph 3;

(b) so as to omit an exception in paragraph 4(1) so far as applying for the purposes of paragraph 4(2)(a) to (e) or (3);

(c) so as to reduce the extent to which an exception referred to in paragraph (a) or (b) applies.

Commencement

Sch. 18 para. 5(1)-(2)(c): April 5, 2011 (SI 2011/1066 art. 2(f))

Extent

Sch. 18 para. 5(1)-(2)(c): England, Wales, Scotland

SCHEDULE 19

PUBLIC AUTHORITIES

Section 150

PART 1

PUBLIC AUTHORITIES: GENERAL

Ministers of the Crown and government departments

Law In Force

A Minister of the Crown.

A government department other than the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

Armed forces

Law In Force With Amendments Pending

Any of the armed forces other than any part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

Proposed Draft Amendments

Sch. 19(1) para. 1: entry inserted by Armed Forces Bill 2021-22 (HL Bill 42) Sch. 4 para. 7 (Lords' Committee Stage, Date to be appointed) (Not yet in force)

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Broadcasting] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Law In Force

[

The British Broadcasting Corporation ("BBC"), except in respect of functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003); and the reference to the BBC includes a reference to a body corporate which—

(a) is a wholly owned subsidiary of the BBC,

(b) is not operated with a view to generating a profit, and

(c) undertakes activities primarily in order to promote the BBC's public purposes.

The Channel Four Television Corporation, except in respect of—

(a) functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003), and

(b) the function of carrying on the activities referred to in section 199 of that Act[2] .

The Welsh Authority (as defined by section 56(1) of the Broadcasting Act 1990[3]), except in respect of functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003).

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

[2] Section 199 was amended by the Digital Economy Act 2010 (c. 24), section 22(2).

[3] 1990 c. 42; section 56(1) was amended by the Communications Act 2003, Schedule 19(1).

Extent

Sch. 19(1) para. 1(a)-(b1): England, Wales, Scotland

[Citizens' rights] [1]

Notes

[1] Added by European Union (Withdrawal Agreement) Act 2020 c. 1 Sch.2(1) para.21 (March 19, 2020)

[

> The Independent Monitoring Authority for the Citizens' Rights Agreements.

] [1]

Notes

[1] Added by European Union (Withdrawal Agreement) Act 2020 c. 1 Sch.2(1) para.21 (March 19, 2020)

Extent

Sch. 19(1) para. 1: (extent not available)

[Civil liberties] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Law In Force

[

The Commission for Equality and Human Rights.
The Information Commissioner.

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Court services and legal services] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Law In Force

[

The Children and Family Court Advisory and Support Service.
The Judicial Appointments Commission.
The Legal Services Board.
[…][2]

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

[2] Words repealed by Legal Aid, Sentencing and Punishment of Offenders Act 2012 c. 10 Sch.5(1) para.70 (April 1, 2013 subject to saving and transitional provisions as specified in SI 2013/534 regs 6-13)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Criminal justice] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Law In Force With Amendments Pending

[

Her Majesty's Chief Inspector of Constabulary.
Her Majesty's Chief Inspector of the Crown Prosecution Service.
Her Majesty's Chief Inspector of Prisons.
Her Majesty's Chief Inspector of Probation for England and Wales.
The Parole Board for England and Wales.
A probation trust established by an order made under section 5(1) of the Offender Management Act 2007.
The Youth Justice Board for England and Wales.

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Amendments Pending

Sch. 19(1) para. 1: item inserted by Forensic Science Regulator Act 2021 c. 14 Sch. 1 para. 11 (date to be appointed)

Sch. 19(1) para. 1: entry inserted by Criminal Justice and Courts Act 2015 c. 2, Sch. 3 para. 17 (date to be appointed)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Environment, housing and development] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

Law In Force With Amendments Pending

[

The Homes and Communities Agency.
Natural England.

[…][2] […][3]
] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.2 (April 4, 2011)

[2] Entry repealed by Localism Act 2011 c. 20 Sch.25(26) para.1 (April 1, 2012 subject to SI 2012/628 arts 9, 11, 14, 15 and 17)

[3] Entry repealed by Olympic Delivery Authority (Dissolution) Order 2014/3184 Sch.1 para.15 (December 2, 2014)

Proposed Draft Amendments

Sch. 19(1) para. 1: words inserted by Environment Bill 2021-22 (HL Bill 43) Sch. 1 para. 23 (Lords' Report Stage, September 6, 2021) (Not yet in force)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Health, social care and social security] [1]

Notes

[1] Substituted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.3 (April 4, 2011)

Law In Force With Amendments Pending

[[The National Health Service Commissioning Board.
A clinical commissioning group established under section 14D of the National Health Service Act 2006. **] [2]**

The Care Quality Commission.
[The Health Research Authority. **] [3] [** Health Education England. **] [4] […][5]**

The Health Service Commissioner for England, in respect of—

(a) the Commissioner's functions set out in paragraph 11 of Schedule 1 to the Health Service Commissioners Act 1993[6] ; and

(b) the Commissioner's public procurement functions (as defined in section 155(3) of this Act).

[Monitor **] [7]**

An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.

An NHS trust established under section 25 of **[** the National Health Service Act 2006 **] [8]** .
[…][9]

A Special Health Authority established under section 28 of that Act other than NHS Blood and Transplant and the NHS Business Services Authority.

[…][10] [The National Institute for Health and Care Excellence. **] [11] [** The Health and Social Care Information Centre. **] [12] [** The National Data Guardian for Health and Social Care. **] [13]] [1]**

Notes

1 Substituted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.3 (April 4, 2011)

2 Entries inserted by Health and Social Care Act 2012 c. 7 Sch.5 para.182(a) (October 1, 2012)

3 Entry inserted by Care Act 2014 c. 23 Sch.7(4) para.27 (January 1, 2015)

4 Entry inserted by Care Act 2014 c. 23 Sch.5(4) para.35 (April 1, 2015)

5 Entry repealed by Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012/2007 Sch.1(1) para.109(e) (August 1, 2012)

6 1993 c. 46; paragraph 11 of Schedule 1 was amended by the Public Services Ombudsman (Wales) Act 2005 (c. 10), Schedule 6, paragraphs 27 and 53(1) and (8); the Government of Wales Act 1998 (c. 38), Schedule 10, paragraph 16(7) and Schedule 18, Part 1; and S.I. 2007/1889. It was repealed in relation to Scotland by the Scottish Public Services Ombudsman Act 2002 (2002 asp 11), paragraph 14 of schedule 6.

7 Entry substituted by Health and Social Care Act 2012 c. 7 Sch.13 para.19 (July 1, 2012)

8 Words substituted by Health and Social Care Act 2012 c. 7 Sch.5 para.182(b) (April 1, 2013 subject to savings and transitional provisons specified in SI 2013/160 arts 5-9)

9 Entry repealed by Health and Social Care Act 2012 c. 7 Sch.5 para.182(c) (April 1, 2013 subject to savings and transitional provisons specified in SI 2013/160 arts 5-9)

10 Entry repealed by Health and Social Care Act 2012 c. 7 Sch.5 para.182(d) (April 1, 2013 subject to savings and transitional provisons specified in SI 2013/160 arts 5-9)

11 Entry inserted by Health and Social Care Act 2012 c. 7 Sch.17 para.14 (April 1, 2013 subject to savings and transitional provisons specified in SI 2013/160 arts 5-9)

12 Entry added by Health and Social Care Act 2012 c. 7 Sch.19 para.13 (April 1, 2013: April, 1, 2013 subject to savings and transitional provisons specified in SI 2013/160 arts 5-9)

13 Entry inserted by Health and Social Care (National Data Guardian) Act 2018 c. 31 Sch.2 para.5 (April 1, 2019)

Amendments Pending

Sch. 19(1) para. 1: entry repealed by Health and Social Care Act 2012 c. 7 Sch. 14(2) para. 116 (Not yet in force)

Proposed Draft Amendments

Sch. 19(1) para. 1: words substituted by Health and Care Bill 2021-22 (HC Bill 140) Sch. 1 para. 14 (Commons' Committee Stage, September 7, 2021) (date to be appointed)

Sch. 19(1) para. 1: entry substituted by Health and Care Bill 2021-22 (HC Bill 140) Sch. 4 para. 171 (Commons' Committee Stage, September 7, 2021) (date to be appointed)

Sch. 19(1) para. 1: entry repealed by Health and Care Bill 2021-22 (HC Bill 140) Sch. 5 para. 44 (Commons' Committee Stage, September 7, 2021) (date to be appointed)

Sch. 19(1) para. 1: entry inserted by Health and Care Bill 2021-22 (HC Bill 140) Sch. 15 para. 10 (Commons' Committee Stage, September 7, 2021) (date to be appointed)

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1(a)-(b): England, Wales, Scotland

[Industry, business, finance etc] [1]

Notes

1 Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.4 (April 4, 2011)

Law In Force With Amendments Pending

[

The Advisory, Conciliation and Arbitration Service.
The Bank of England **[** (including the Bank in its capacity as the Prudential Regulation Authority) **]** [2] , in respect of its public functions.
[The Board of the Pension Protection Fund. **]** [3]
The Civil Aviation Authority.
[The Coal Authority. **]** [3]
[…][4] **[…]**[5]
[The Comptroller and Auditor General. **]** [6]
[The Construction Industry Training Board. **]** [3]
[The Engineering Construction Industry Training Board. **]** [3]
[The Financial Conduct Authority **]** [7]
[The Financial Reporting Council Limited[9] . **]** [8]
[The Money and Pensions Service. **]** [10]
The National Audit Office.
[The Nuclear Decommissioning Authority. **]** [3]
[The Office for Budget Responsibility. **]** [11]
The Office of Communications.
[The Office of Tax Simplification. **]** [12]
[The Oil and Gas Authority. **]** [3]
[The Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013. **]** [13]
[The Trade Remedies Authority. **]** [14]
[…][15]
[United Kingdom Research and Innovation. **]** [16]
[…][17]

] [1]

Notes

1 Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.4 (April 4, 2011)

2 Words inserted by Bank of England and Financial Services (Consequential Amendments) Regulations 2017/80 Sch.1(1) para.19(a) (March 1, 2017)

3 Entries inserted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.2(b) (March 31, 2017)

4 Words repealed by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.182 (April 1, 2014)

5 Words repealed by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.2(a) (March 31, 2017)

[6] Entry inserted by Budget Responsibility and National Audit Act 2011 c. 4 Sch.5(2) para.34 (April 1, 2012)

[7] Entry substituted by Financial Services Act 2012 c. 21 Sch.18(2) para.131(a) (April 1, 2013)

[8] Entry inserted by Financial Reporting Council (Miscellaneous Provisions) Order 2021/408 art.2(2) (April 6, 2021)

[9] A company registered in England and Wales with number 02486368.

[10] Entry inserted by Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019/383 Sch.1(1) para.9(b) (April 6, 2019)

[11] Entry inserted by Budget Responsibility and National Audit Act 2011 c. 4 Sch.1 para.28 (April 4, 2011)

[12] Entry inserted by Finance Act 2016 c. 24 Sch.25 para.15 (November 28, 2016)

[13] Words inserted by Financial Services (Banking Reform) Act 2013 c. 33 Sch.4 para.16 (March 1, 2014)

[14] Entry inserted by Trade Act 2021 c. 10 Sch.4 para.40 (June 1, 2021)

[15] Entry repealed by Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019/383 Sch.1(1) para.9(a) (April 6, 2019)

[16] Entry inserted by Higher Education and Research Act 2017 c. 29 Sch.9 para.23 (March 30, 2018)

[17] Entry repealed by Bank of England and Financial Services (Consequential Amendments) Regulations 2017/80 Sch.1(1) para.19(b) (March 1, 2017)

Amendments Pending

Sch. 19(1) para. 1: entry inserted by Trade Act 2021 c. 10, Sch. 6 para. 6 (date to be appointed)

Proposed Draft Amendments

Sch. 19(1) para. 1: entry inserted by Advanced Research and Invention Agency Bill 2021-22 (HL Bill 24) Sch. 3 para. 10 (Lords' Second Reading, Date to be appointed) (date to be appointed)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

Local government

Law In Force

A county council, district council or parish council in England.

A parish meeting constituted under section 13 of the Local Government Act 1972.

Charter trustees constituted under section 246 of that Act for an area in England.

The Greater London Authority.

A London borough council.

The Common Council of the City of London in its capacity as a local authority or port health authority.

The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in that person's capacity as a local authority.

[…][1]

[The London Fire Commissioner. **]** [2]

Transport for London.
[A Mayoral development corporation. **]** [3]

The Council of the Isles of Scilly.

The Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988.
[…][4]

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in England.
[A fire and rescue authority created by an order under section 4A of that Act. **]** [5]

An internal drainage board which is continued in being by virtue of section 1 of the Land Drainage Act 1991 for an area in England.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in England.

A Passenger Transport Executive for an integrated transport area in England (within the meaning of Part 2 of the Transport Act 1968).

A port health authority constituted by an order under section 2 of the Public Health (Control of Disease) Act 1984 for an area in England.

A waste disposal authority established by virtue of an order under section 10(1) of the Local Government Act 1985.

A joint authority established under Part 4 of that Act for an area in England (including, by virtue of section 77(9) of the Local Transport Act 2008, an Integrated Transport Authority established under Part 5 of that Act of 2008).
[A sub-national transport body established under section 102E of the Local Transport Act 2008. **]** [6]

A body corporate established pursuant to an order under section 67 of the Local Government Act 1985.

A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1972 for an area in England.

A joint board which is continued in being by virtue of section 263(1) of that Act for an area in England.
[[…][8] A Local Commissioner in England as defined by section 23(3) of the Local Government Act 1974[9], in respect of—

(a) the Commissioner's functions under sections 29(6A) and 34G(6) of that Act[10], and section 210(5) of the Apprenticeships, Skills, Children and Learning Act 2009; and

(b) the Commissioner's public procurement functions (as defined in section 155(3) of this Act).

[…][11] **]** [7]
[A combined authority established by an order made under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009.[13]
An economic prosperity board established by an order made under section 88(1) of the Local Democracy, Economic Development and Construction Act 2009.
An urban development corporation established by an order made under section 135 of the Local Government, Planning and Land Act 1980.[14] **]** [12]

Notes

1 Entry repealed by Localism Act 2011 c. 20 Sch.25(32) para.1 (March 31, 2012)

2 Entry substituted by Policing and Crime Act 2017 c. 3 Sch.2(2) para.116 (April 1, 2018)

3 Entry inserted by Localism Act 2011 c. 20 Sch.22 para.62 (January 15, 2012)

4 Words repealed by Public Bodies Act 2011 c. 24 Sch.6 para.1 (July 1, 2012: repeal has effect as SI 2012/1662 at 00.02)

5 Entry inserted by Policing and Crime Act 2017 c. 3 Sch.1(2) para.85 (April 3, 2017)

6 Entry inserted by Cities and Local Government Devolution Act 2016 c. 1 Sch.5 para.31 (March 28, 2016)

7 Entries inserted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.5 (April 4, 2011)

8 Entry repealed by Local Audit and Accountability Act 2014 c. 2 Sch.12 para.114 (April 1, 2015)

9 1974 c. 7; Section 23(3) was amended by the Government of Wales Act 1998, Schedule 12, paragraph 13(3); the Local Government and Housing Act 1989 (c. 42), section 22(1) to (3); the Public Services Ombudsman (Wales) Act 2005, Schedule 6, paragraphs 7 and 8(1) and (4); and S.I. 2004/2359.

10 Section 29(6A) was inserted by S.I. 2007/1889 and amended by the Health Act 2009 (c. 21), Schedule 5, Part 2, paragraphs 4 and 8(1) and (3). Section 34G was inserted by the Health Act 2009, Schedule 5, Part 1, paragraphs 1 and 2.

11 Words repealed by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.3(a) (March 31, 2017)

12 Entries inserted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.3(b) (March 31, 2017)

13 2009 c. 20. There are amendments to the section, not relevant here.

14 1980 c. 65. Section 135 was amended by section 179(4) of the Leasehold Reform, Housing and Urban Development Act (c. 28), and by section 167(2) and (3) of the Housing and Planning Act 2016 (c. 22).

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1(a)-(b): England, Wales, Scotland

Other educational bodies

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Scotland | Wales

Law In Force

England and Scotland

The governing body of an educational establishment maintained by an English local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in England within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

The governing body of an institution in England within the higher education sector (within the meaning of section 91(5) of that Act).
[[...][2] A local authority with respect to the pupil referral units it establishes and maintains by virtue of section 19 of the Education Act 1996[3] . **[** The National Citizen Service Trust. **]** [4] **[** The Office for Students. **]** [5]
[The proprietor of a City Technology College, a City College for Technology of the Arts, or an Academy. **]** [6] **]** [1]

Notes

1 Entries inserted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.6 (April 4, 2011)

2 Entry repealed by Higher Education and Research Act 2017 c. 29 Sch.11 para.32 (April 1, 2018)

3 1996 c. 56; Section 19 was amended by the Children, Schools and Families Act 2010 (c. 26), section 3, Schedule 3, Part 1, paragraph 1 and Schedule 4, Part 1; the Education and Inspections Act 2006 (c. 40), section 101; the Education Act 1997 (c. 44), section 47(2) to (4), Schedule 8; and S.I. 2010/1158 and 2007/1507.

4 Entry inserted by National Citizen Service Act 2017 c. 15 Sch.2 para.4 (December 1, 2018)

5 Entry inserted by Higher Education and Research Act 2017 c. 29 Sch.1 para.21 (January 1, 2018)

6 Words substituted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.4 (March 31, 2017)

Wales

[

The governing body of an educational establishment maintained by an English local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in England within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

The governing body of an institution in England within the higher education sector (within the meaning of section 91(5) of that Act).

A local authority with respect to the pupil referral units it establishes and maintains by virtue of section 19 or 19A of the Education Act 1996[2] .

The National Citizen Service Trust.

The Office for Students.

The proprietor of a City Technology College, a City College for Technology of the Arts, or an Academy.
] [1]

Notes

[1] Words inserted by Curriculum and Assessment (Wales) Act 2021 asc. 4 Sch.2 para.65 (April 30, 2021)

[2] 1996 c. 56; Section 19 was amended by the Children, Schools and Families Act 2010 (c. 26), section 3, Schedule 3, Part 1, paragraph 1 and Schedule 4, Part 1; the Education and Inspections Act 2006 (c. 40), section 101; the Education Act 1997 (c. 44), section 47(2) to (4), Schedule 8; and S.I. 2010/1158 and 2007/1507.

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Parliamentary and devolved bodies] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.7 (April 4, 2011)

Law In Force

[

The National Assembly for Wales Commission (Comisiwn Cynulliad CenedlaetholCymru).

The Parliamentary Commissioner for Administration, in respect of—

(a) the Commissioner's functions set out in section 3(1) and (1A) of the Parliamentary Commissioner Act 1967[2] ; and

(b) the Commissioner's public procurement functions (as defined in section 155(3) of this Act).

The Scottish Parliamentary Corporate Body.

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.7 (April 4, 2011)

[2] 1967 c. 13; section 3(1A) was inserted by S.I. 2007/1889.

Extent

Sch. 19(1) para. 1(a)-(b): England, Wales, Scotland

[Police] [1]

Notes

1 Substituted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.8 (April 4, 2011)

Law In Force

[

The British Transport Police Force.

A chief constable of a police force maintained under section 2 of the Police Act 1996.

The Chief Inspector of the UK Border Agency.

The Civil Nuclear Police Authority.
[The College of Policing. **]** [2]

The Commissioner of Police for the City of London.

The Commissioner of Police of the Metropolis.

The Common Council of the City of London in its capacity as a police authority.
[The Director General of the Independent Office for Police Conduct. **]** [3] **[** The Independent Office for Police Conduct. **]** [3] **[…]**[4] **[** A police and crime commissioner established under section 1 of the Police Reform and Social Responsibility Act 2011.
The Mayor's Office for Policing and Crime established under section 3 of that Act. **]** [5]

A Port Police Force established under an order made under section 14 of the Harbours Act 1964[6] .

The Port Police Force established under Part 10 of the Port of London Act 1968[7] .

A Port Police Force established under section 79 of the Harbours, Docks and Piers Clauses Act 1847.
[…][8] **]** [1]

Notes

1 Substituted by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.8 (April 4, 2011)

2 Entry inserted by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Sch.11(3) para.96 (May 13, 2014)

3 Entries inserted by Policing and Crime Act 2017 c. 3 Sch.9(3) para.72 (January 8, 2018 subject to transitional provisions specified in SI 2017/1249 reg.3)

4 Entry repealed by Policing and Crime Act 2017 c. 3 Sch.9(3) para.72 (January 8, 2018 subject to transitional provisions specified in SI 2017/1249 reg.3)

5 Entries substituted by Police Reform and Social Responsibility Act 2011 c. 13 Sch.16(3) para.383 (November 22, 2012: commenced by an amendment)

6 1964 c. 40; section 14 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 8 and 9; the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1 (6)); the Transport Act 1981 (c. 56), Schedule 6 and Schedule 12, Part 2; the Criminal Justice Act 1982 (c. 48), sections 37 and 46; and S.I. 2006/1177 and 2009/1941.

7 1968 c. 32; section 156 was amended by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, Part 3, paragraph 41(1) and (3); the Port of London Act 1982 (c. 9), section 3(1), Schedule 1, Part 1 and Schedule 2; and the Criminal Justice Act 1982, section 46.

[8] Words repealed by Crime and Courts Act 2013 c. 22 Sch.8(2) para.183 (October 7, 2013: repeal has effect as SI 2013/1682 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8)

Commencement

Sch. 19(1) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[Regulators] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.9 (April 4, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Law In Force

Scotland and Wales

[

[…][2]
[The Association of Chartered Certified Accountants, in respect of its public functions. **]** [3]
[…][2]
The Chartered Institute of Patent Attorneys, in respect of its public functions.
The Council for Licensed Conveyancers, in respect of its public functions.
[The Disclosure and Barring Service.
The Gambling Commission.
The Gangmasters and Labour Abuse Authority. **]** [4]
The General Chiropractic Council, in respect of its public functions.
The General Council of the Bar, in respect of its public functions.
The General Dental Council, in respect of its public functions.
The General Medical Council, in respect of its public functions.
[The General Optical Council, in respect of its public functions.
The General Osteopathic Council, in respect of its public functions.
The General Pharmaceutical Council, in respect of its public functions.
The Health and Care Professions Council, in respect of its public functions. **]** [4]
The Health and Safety Executive.
[The Independent Monitor appointed under section 119B of the Police Act 1997.[5] **]** [4]

The Insolvency Practitioners Association, in respect of its public functions.
The Institute of Chartered Accountants in England and Wales, in respect of its public functions.
The Institute of Legal Executives, in respect of its public functions.
The Institute of Trade Mark Attorneys, in respect of its public functions.
The Law Society of England and Wales, in respect of its public functions.
The Nursing and Midwifery Council, in respect of its public functions.
The Office of the Immigration Services Commissioner.
[The Office for Nuclear Regulation. **]** [6]
[The Pensions Regulator.
The Security Industry Authority. **]** [4]
[Social Work England. **]** [7]

] [1]

Notes

1 Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.1 para.9 (April 4, 2011)

2 Words repealed by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.5(a) (March 31, 2017)

3 Words substituted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.5(b) (March 31, 2017)

4 Words inserted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.5(c) (March 31, 2017)

5 1997 c. 50. Section 119B was added by section 28 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) and amended by paragraph 111(4) of Schedule 9 and paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9); and by S.I. 2012/3006. There are further amendments to the section, not relevant here.

6 Entry inserted by Energy Act 2013 c. 32 Sch.12(5) para.102 (March 10, 2014)

7 Entry inserted by Social Workers Regulations 2018/893 Pt 8 reg.40(2) (July 23, 2018)

England

[

The Association of Chartered Certified Accountants, in respect of its public functions.
The Chartered Institute of Patent Attorneys, in respect of its public functions.
The Council for Licensed Conveyancers, in respect of its public functions.
The Disclosure and Barring Service.
The Gambling Commission.
The Gangmasters and Labour Abuse Authority.
The General Chiropractic Council, in respect of its public functions.
The General Council of the Bar, in respect of its public functions.
The General Dental Council, in respect of its public functions.
The General Medical Council, in respect of its public functions.
The General Optical Council, in respect of its public functions.
The General Osteopathic Council, in respect of its public functions.
The General Pharmaceutical Council, in respect of its public functions.
The Health and Care Professions Council, in respect of its public functions.

The Health and Safety Executive.
The Independent Monitor appointed under section 119B of the Police Act 1997.[2]
The Insolvency Practitioners Association, in respect of its public functions.
The Institute of Chartered Accountants in England and Wales, in respect of its public functions.
The Institute of Legal Executives, in respect of its public functions.
The Institute of Trade Mark Attorneys, in respect of its public functions.
The Law Society of England and Wales, in respect of its public functions.
The Nursing and Midwifery Council, in respect of its public functions.
The Office of the Immigration Services Commissioner.
The Office for Nuclear Regulation.
The Pensions Regulator.
The Regulator of Social Housing.
The Security Industry Authority.
Social Work England.

] [1]

Notes

1 Entry inserted by Legislative Reform (Regulator of Social Housing) (England) Order 2018/1040 Sch.1(2) para.42 (October 1, 2018: insertion has effect subject to savings and transitional provisions specified in SI 2018/1040 Sch.1 paras 48 and 49)

2 1997 c. 50. Section 119B was added by section 28 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) and amended by paragraph 111(4) of Schedule 9 and paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9); and by S.I. 2012/3006. There are further amendments to the section, not relevant here.

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

[** Transport **] [1]

Notes

1 Added by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.6 (March 31, 2017)

Law In Force

[

High Speed Two (HS2) Limited.
Highways England Company Limited.
Network Rail Limited.

] [1]

Notes

1 Added by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.6 (March 31, 2017)

Extent

Sch. 19(1) para. 1: England, Wales, Scotland

PART 2

PUBLIC AUTHORITIES: RELEVANT WELSH AUTHORITIES

[Welsh Government][1] , etc.

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Law In Force

The Welsh Ministers.

The First Minister for Wales.

The Counsel General to the **[** Welsh Government **]**[1] .

A subsidiary of the Welsh Ministers (within the meaning given by section 134(4) of the Government of Wales Act 2006).

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Commencement

Sch. 19(2) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(2) para. 1: England, Wales, Scotland

National Health Service

Law In Force With Amendments Pending

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

An NHS trust established under section 18 of that Act.
[…][1]

A Community Health Council in Wales.
[The Board of Community Health Councils in Wales or Bwrdd Cynghorau Iechyd Cymuned Cymru. **]** [2]

Notes

[1] Entry repealed by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(c) (April 4, 2011)

[2] Entry inserted by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(a) (April 4, 2011)

Amendments Pending

Sch. 19(2) para. 1: words repealed by Health and Social Care (Quality and Engagement) (Wales) Act 2020 anaw. 01, Sch. 3(2) para. 10(a)(ii) (date to be appointed)

Sch. 19(2) para. 1: words repealed by Health and Social Care (Quality and Engagement) (Wales) Act 2020 anaw. 01, Sch. 3(2) para. 10(a)(i) (date to be appointed)

Commencement

Sch. 19(2) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(2) para. 1: England, Wales, Scotland

Local government

Law In Force

[A county council or county borough council in Wales. **]** [1]
[A corporate joint committee established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021. **]** [2] **[…]**[3]

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.
[…][3]

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.
[…][4] **[…]**[3]

Notes

[1] Entry substituted by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(b) (April 4, 2011)

[2] Words inserted by Equality Act 2010 (Public Authorities subject to the Public Sector Equality Duty) (Wales) Order 2021/347 art.2 (April 1, 2021)

[3] Entries repealed by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(c) (April 4, 2011)

[4] Entry repealed by Local Government and Elections (Wales) Act 2021 asc. 1 Sch.9(1) para.43 (January 21, 2021)

Commencement

Sch. 19(2) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(2) para. 1: England, Wales, Scotland

Other educational bodies

Law In Force

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

The governing body of an institution in Wales within the higher education sector (within the meaning of section 91(5) of that Act).
[The Higher Education Funding Council for Wales or Cyngor Cyllido Addysg Uwch Cymru.
The General Teaching Council for Wales or Cyngor Addysgu Cyffredinol Cymru.
Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru. **]** [1]
[Qualifications Wales. **]** [2]

Notes

[1] Entries inserted by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(d) (April 4, 2011)

[2] Words inserted by Qualifications Wales Act 2015 anaw. 5 Sch.1(2) para.40 (September 21, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1687 art.3)

Commencement

Sch. 19(2) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(2) para. 1: England, Wales, Scotland

[** Other public authorities **] [1]

Notes

[1] Entries inserted by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(d) (April 4, 2011)

Law In Force With Amendments Pending

[

[The Welsh Revenue Authority or Awdurdod Cyllid Cymru. **]** [2]

The Auditor General for Wales or Archwilydd Cyffredinol Cymru.

The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

[Social Care Wales or Gofal Cymdeithasol Cymru.[4] **]** [3]

The Arts Council for Wales or Cyngor Celfyddydau Cymru.

The National Museum of Wales or Amgueddfa Genedlaethol Cymru.

The National Library of Wales or Llyfrgell Genedlaethol Cymru.

The Sports Council for Wales or Cyngor Chwaraeon Cymru.

[Comisiynydd y Gymraeg (The Welsh Language Commissioner). **]** [5]

[…][6]

The Commissioner for Older People in Wales or Comisiynydd Pobl H n Cymru.

The Children's Commissioner for Wales or Comisiynydd Plant Cymru.

[The Wales Audit Office or Swyddfa Archwilio Cymru. **]** [7]

] [1]

Notes

1 Entries inserted by Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011/1063 art.2(d) (April 4, 2011)

2 Entry inserted by Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018/285 reg.3 (April 1, 2018)

3 Words substituted by Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017/353 Sch.3 para.8 (March 31, 2017: Substitution has effect as specified in SI 2017/353 Sch.3 para.9)

4 The Care Council for Wales was renamed Social Care Wales by section 67 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw. 2). Section 67 was commenced for certain purposes only by S.I. 2016/713.

5 Words substituted by Welsh Language (Wales) Measure 2011 (Transfer of functions, Transitional and Consequential Provisions) Order 2012/990 art.11 (April 1, 2012)

6 Entry repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.450(2) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

7 Words inserted by Public Audit (Wales) Act 2013 anaw. 3 Sch.4 para.92 (April 1, 2014)

Amendments Pending

Sch. 19(2) para. 1: entry inserted by Health and Social Care (Quality and Engagement) (Wales) Act 2020 anaw. 01, Sch. 3(2) para. 10(b) (date to be appointed)

Extent

Sch. 19(2) para. 1: England, Wales, Scotland

PART 3

PUBLIC AUTHORITIES: RELEVANT SCOTTISH AUTHORITIES

Scottish Administration

Law In Force

An office-holder in the Scottish Administration (within the meaning given by section 126(7)(a) of the Scotland Act 1998).

Commencement

Sch. 19(3) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

National Health Service

Law In Force

A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.

A Special Health Board constituted under that section.

Commencement

Sch. 19(3) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

Local government

Law In Force

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

A community council established under section 51 of the Local Government (Scotland) Act 1973.

A joint board within the meaning of section 235(1) of that Act.
[…][1]

A licensing board established under section 5 of the Licensing (Scotland) Act 2005, or continued in being by virtue of that section.

A National Park authority established by a designation order made under section 6 of the National Parks (Scotland) Act 2000.

Scottish Enterprise and Highlands and Islands Enterprise, established under the Enterprise and New Towns (Scotland) Act 1990.

Notes

[1] Entry repealed by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(4)(a) (April 1, 2013)

Commencement

Sch. 19(3) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

Other educational bodies

Law In Force

An education authority in Scotland (within the meaning of section 135(1) of the Education (Scotland) Act 1980).

The managers of a grant-aided school (within the meaning of that section).

The board of management of a college of further education (within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992).

In the case of such a college of further education not under the management of a board of management, the board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors.

The governing body of an institution within the higher education sector (within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992).

Commencement

Sch. 19(3) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

[** Police and Fire **] [1]

Notes

[1] Heading substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(4)(b) (April 1, 2013)

Law In Force

[The Scottish Police Authority. **]** [1]
[The chief constable of the Police Service of Scotland.
The Scottish Fire and Rescue Service.
The Chief Officer of the Scottish Fire and Rescue Service. **]** [2]

Notes

[1] Entry substituted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(4)(c) (April 1, 2013)

[2] Entries inserted by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(4)(d) (April 1, 2013)

Commencement

Sch. 19(3) para. 1: January 18, 2011 (SI 2011/96 art. 2(d))

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

[Other bodies and offices added on 6th April 2011] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011/233 (Scottish SI) art.2 (April 6, 2011)

Law In Force

[

Accounts Commission for Scotland.
Audit Scotland.
Board of Trustees of the National Galleries of Scotland.
Board of Trustees of the National Museums of Scotland.
Board of Trustees of the Royal Botanic Garden, Edinburgh.
Bòrd na Gàidhlig.
[…][2]
A chief officer of a community justice authority.
[…][2]
Commissioner for Children and Young People in Scotland.
Commission for Ethical Standards in Public Life in Scotland.
The Common Services Agency for the Scottish Health Service.
A community justice authority.
Creative Scotland.
The Crofters Commission.
The General Teaching Council for Scotland.
Healthcare Improvement Scotland

Learning and Teaching Scotland.
The Mental Welfare Commission for Scotland.
[The Police Investigations and Review Commissioner. **]** [3]
Quality Meat Scotland.
A regional Transport Partnership created by an order under section 1(1) of the Transport (Scotland) Act 2005.
Risk Management Authority.
Royal Commission on the Ancient and Historical Monuments of Scotland.
Scottish Children's Reporter Administration.
Scottish Commission for Human Rights.
The Scottish Criminal Cases Review Commission.
Scottish Environment Protection Agency.
Scottish Further and Higher Education Funding Council.
Scottish Futures Trust Ltd.
Scottish Information Commissioner.
The Scottish Legal Aid Board.
The Scottish Legal Complaints Commission.
Scottish Natural Heritage.
[…][2]
Scottish Public Services Ombudsman.
Scottish Qualifications Authority.
The Scottish Road Works Commissioner.
The Scottish Social Services Council.
The Scottish Sports Council.
Scottish Water.
Skills Development Scotland.
Social Care and Social Work Improvement Scotland.
The Standards Commission for Scotland.
[The National Library of Scotland **]** [4] .
VisitScotland.
A Water Customer Consultation Panel.
The Water Industry Commission for Scotland.
] [1]

Notes

1 Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011/233 (Scottish SI) art.2 (April 6, 2011)

2 Entries repealed by Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013/602 Sch.2(1) para.63(4)(e) (April 1, 2013)

3 Words substituted by Police and Fire Reform (Scotland) Act 2012 asp 8 (Scottish Act) Pt 1 c.10 s.61(3) (April 1, 2013)

4 Words substituted by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2013/170 (Scottish SI) art.2 (June 28, 2013)

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

[Other bodies and offices added on 5th March 2012] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2012/55 (Scottish SI) art.2 (March 5, 2012)

Law In Force

[

Children's Hearings Scotland.
The National Convener of Children's Hearings Scotland.

] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2012/55 (Scottish SI) art.2 (March 5, 2012)

Extent

Sch. 19(3) para. 1: Scotland

[Other bodies added on 1st April 2015] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2015/83 (Scottish SI) art.2 (April 1, 2015)

Law In Force

[

Historic Environment Scotland[2] .

An integration joint board established by order under section 9(2) of the Public Bodies (Joint Working) (Scotland) Act 2014.

A regional board (within the meaning of section 35(1) of the Further and Higher Education (Scotland) Act 2005[3]).

] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2015/83 (Scottish SI) art.2 (April 1, 2015)

[2] Historic Environment Scotland is established by section 1 of the Historic Environment Scotland Act 2014 (asp 19).

[3] 2005 asp 6; section 35(1) was relevantly amended by the Post-16 Education (Scotland) Act 2013 (asp 12), schedule, paragraph 8(23)(a)(iv).

Extent

Sch. 19(3) para. 1: Scotland

[Other body added on 28th June 2018] [1]

Notes

[1] Added by ILF Scotland (Miscellaneous Listings) Order 2018/214 (Scottish SI) art.4(2) (June 28, 2018)

[
ILF Scotland.
] [1]

Notes

[1] Added by ILF Scotland (Miscellaneous Listings) Order 2018/214 (Scottish SI) art.4(2) (June 28, 2018)

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

[Other office added on 1st December 2020] [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2020/313 (Scottish SI) art.2 (December 1, 2020)

[Scottish Biometrics Commissioner[2] . **]** [1]

Notes

[1] Added by Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2020/313 (Scottish SI) art.2 (December 1, 2020)

[2] The office of Scottish Biometrics Commissioner is established by section 1 of the Scottish Biometrics Commissioner Act 2020 (asp 8).

Extent

Sch. 19(3) para. 1: Scotland

[Other body added on 26th November 2020] [1]

Notes

[1] Added by Scottish National Investment Bank p.l.c. (Miscellaneous Listings) Order 2020/401 (Scottish SI) art.2(2) (November 26, 2020)

[The Scottish National Investment Bank p.l.c.] [1]

Notes

[1] Added by Scottish National Investment Bank p.l.c. (Miscellaneous Listings) Order 2020/401 (Scottish SI) art.2(2) (November 26, 2020)

Extent

Sch. 19(3) para. 1: England, Wales, Scotland

[PART 4

PUBLIC AUTHORITIES: CROSS-BORDER AUTHORITIES

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.2 para.1 (April 4, 2011)

[Cross-border Welsh authorities] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.2 para.1 (April 4, 2011)

Law In Force

[

The Environment Agency — D
[The Natural Resources Body for Wales — A] [2]
NHS Blood and Transplant — D
The NHS Business Services Authority — D
The Student Loans Company Limited — D

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.2 para.1 (April 4, 2011)

[2] Entry inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.450(3) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Sch. 19(4) para. 1: England, Wales, Scotland

SCHEDULE 20

RAIL VEHICLE ACCESSIBILITY: COMPLIANCE

Section 186

Repealed

1 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

2 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

3 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

4 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

5 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

6 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

7 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

8 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

9 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

10 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

11 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

12 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

13 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

14 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

Repealed

15 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Pt 12 c.3 s.186(2) (December 31, 2010)

SCHEDULE 21

REASONABLE ADJUSTMENTS: SUPPLEMENTARY

Section 189

Law In Force

1 Preliminary

This Schedule applies for the purposes of Schedules 2, 4, 8, 13 and 15.

Commencement

Sch. 21 para. 1: October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 1: England, Wales, Scotland

Law In Force

2 Binding obligations, etc.

(1) This paragraph applies if—

(a) a binding obligation requires A to obtain the consent of another person to an alteration of premises which A occupies,

(b) where A is a controller of let premises, a binding obligation requires A to obtain the consent of another person to a variation of a term of the tenancy, or

(c) where A is a responsible person in relation to common parts, a binding obligation requires A to obtain the consent of another person to an alteration of the common parts.

(2) For the purpose of discharging a duty to make reasonable adjustments—

(a) it is always reasonable for A to have to take steps to obtain the consent, but

(b) it is never reasonable for A to have to make the alteration before the consent is obtained.

(3) In this Schedule, a binding obligation is a legally binding obligation in relation to premises, however arising; but the reference to a binding obligation in sub-paragraph (1)(a) or (c) does not include a reference to an obligation imposed by a tenancy.

(4) The steps referred to in sub-paragraph (2)(a) do not include applying to a court or tribunal.

Commencement

Sch. 21 para. 2(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 2(1)-(4): England, Wales, Scotland

Law In Force

3 Landlord's consent

(1) This paragraph applies if—

(a) A occupies premises under a tenancy,

(b) A is proposing to make an alteration to the premises so as to comply with a duty to make reasonable adjustments, and

(c) but for this paragraph, A would not be entitled to make the alteration.

(2) This paragraph also applies if—

(a) A is a responsible person in relation to common parts,

(b) A is proposing to make an alteration to the common parts so as to comply with a duty to make reasonable adjustments,

(c) A is the tenant of property which includes the common parts, and

(d) but for this paragraph, A would not be entitled to make the alteration.

(3) The tenancy has effect as if it provided—

(a) for A to be entitled to make the alteration with the written consent of the landlord,

(b) for A to have to make a written application for that consent,

(c) for the landlord not to withhold the consent unreasonably, and

(d) for the landlord to be able to give the consent subject to reasonable conditions.

(4) If a question arises as to whether A has made the alteration (and, accordingly, complied with a duty to make reasonable adjustments), any constraint attributable to the tenancy must be ignored unless A has applied to the landlord in writing for consent to the alteration.

(5) For the purposes of sub-paragraph (1) or (2), A must be treated as not entitled to make the alteration if the tenancy—

(a) imposes conditions which are to apply if A makes an alteration, or

(b) entitles the landlord to attach conditions to a consent to the alteration.

Commencement

Sch. 21 para. 3(1)-(5)(b): October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 3(1)-(5)(b): England, Wales, Scotland

Law In Force

4 Proceedings before county court or sheriff

(1) This paragraph applies if, in a case within Part 3, 4, 6 or 7 of this Act—

(a) A has applied in writing to the landlord for consent to the alteration, and

(b) the landlord has refused to give consent or has given consent subject to a condition.

(2) A (or a disabled person with an interest in the alteration being made) may refer the matter to **[** the county court **]** [1] or, in Scotland, the sheriff.

(3) The county court or sheriff must determine whether the refusal or condition is unreasonable.

(4) If the county court or sheriff finds that the refusal or condition is unreasonable, the county court or sheriff—

(a) may make such declaration as it thinks appropriate;

(b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified).

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Sch. 21 para. 4(1)-(4)(b): October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 4(1)-(4)(b): England, Wales, Scotland

Law In Force

5 Joining landlord as party to proceedings

(1) This paragraph applies to proceedings relating to a contravention of this Act by virtue of section 20.

(2) A party to the proceedings may request the employment tribunal, county court or sheriff ("the judicial authority") to direct that the landlord is joined or sisted as a party to the proceedings.

(3) The judicial authority—

(a) must grant the request if it is made before the hearing of the complaint or claim begins;
(b) may refuse the request if it is made after the hearing begins;
(c) must refuse the request if it is made after the complaint or claim has been determined.

(4) If the landlord is joined or sisted as a party to the proceedings, the judicial authority may determine whether—

(a) the landlord has refused to consent to the alteration;
(b) the landlord has consented subject to a condition;
(c) the refusal or condition was unreasonable.

(5) If the judicial authority finds that the refusal or condition was unreasonable, it—

(a) may make such declaration as it thinks appropriate;
(b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified);
(c) may order the landlord to pay compensation to the complainant or claimant.

(6) An employment tribunal may act in reliance on sub-paragraph (5)(c) instead of, or in addition to, acting in reliance on section 124(2); but if it orders the landlord to pay compensation it must not do so in reliance on section 124(2).

(7) If **[** the county court **]**[1] or the sheriff orders the landlord to pay compensation, it may not order A to do so.

Notes

[1] Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Commencement

Sch. 21 para. 5(1)-(7): October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 5(1)-(7): England, Wales, Scotland

Law In Force

6 Regulations

(1) Regulations may make provision as to circumstances in which a landlord is taken for the purposes of this Schedule to have—

(a) withheld consent;
(b) withheld consent reasonably;
(c) withheld consent unreasonably.

(2) Regulations may make provision as to circumstances in which a condition subject to which a landlord gives consent is taken—

(a) to be reasonable;
(b) to be unreasonable.

(3) Regulations may make provision supplementing or modifying the preceding paragraphs of this Schedule, or provision made under this paragraph, in relation to a case where A's tenancy is a sub-tenancy.

(4) Provision made by virtue of this paragraph may amend the preceding paragraphs of this Schedule.

Commencement

Sch. 21 para. 6(1)-(4): July 6, 2010 for the purpose of enabling subordinate legislation or guidance to be made; October 1, 2010 otherwise (SI 2010/1736 art. 2, Sch. 1 para. 1; SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 6-(4): England, Wales, Scotland

Law In Force

7 Interpretation

An expression used in this Schedule and in Schedule 2, 4, 8, 13 or 15 has the same meaning in this Schedule as in that Schedule.

Commencement

Sch. 21 para. 7: October 1, 2010 (SI 2010/2317 art. 2(13)(c))

Extent

Sch. 21 para. 7: England, Wales, Scotland

SCHEDULE 22

STATUTORY PROVISIONS

Section 191

Statutory authority

Law In Force

1

(1) A person (P) does not contravene a provision specified in the first column of the table, so far as relating to the protected characteristic specified in the second column in respect of that provision, if P does anything P must do pursuant to a requirement specified in the third column.

Specified provision	***Protected characteristic***	***Requirement***
Parts 3 to 7	Age	A requirement of an enactment
Parts 3 to 7 and 12	Disability	A requirement of an enactment
		A relevant requirement or condition imposed by virtue of an enactment
Parts 3 to 7	Religion or belief	A requirement of an enactment
		A relevant requirement or condition imposed by virtue of an enactment
Section 29(6) and Parts 6 and 7	Sex	A requirement of an enactment
Parts 3, 4, 6 and 7	Sexual orientation	A requirement of an enactment
		A relevant requirement or condition imposed by virtue of an enactment

(2) A reference in the table to Part 6 does not include a reference to that Part so far as relating to vocational training.

(3) In this paragraph a reference to an enactment includes a reference to—

(a) a Measure of the General Synod of the Church of England;

(b) an enactment passed or made on or after the date on which this Act is passed.

(4) In the table, a relevant requirement or condition is a requirement or condition imposed (whether before or after the passing of this Act) by—

(a) a Minister of the Crown;

(b) a member of the Scottish Executive;

(c) the National Assembly for Wales (constituted by the Government of Wales Act 1998);

(d) the Welsh Ministers, the First Minister for Wales or the Counsel General to the **[** Welsh Government **]** [1] .

Notes

[1] Words substituted by Wales Act 2014 c. 29 Pt 1 s.4(4)(a) (February 17, 2015)

Commencement

Sch. 22 para. 1(1)-(4)(d): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(d); SI 2012/1569 art. 3(f))

Extent

Sch. 22 para. 1-(4)(d): England, Wales, Scotland

Protection of women

Law In Force

2

(1) A person (P) does not contravene a specified provision only by doing in relation to a woman (W) anything P is required to do to comply with—

(a) a pre-1975 Act enactment concerning the protection of women;

(b) a relevant statutory provision (within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974) if it is done for the purpose of the protection of W (or a description of women which includes W);

(c) a requirement of a provision specified in Schedule 1 to the Employment Act 1989 (provisions concerned with protection of women at work).

(2) The references to the protection of women are references to protecting women in relation to—

(a) pregnancy or maternity, or

(b) any other circumstances giving rise to risks specifically affecting women.

(3) It does not matter whether the protection is restricted to women.

(4) These are the specified provisions—

(a) Part 5 (work);

(b) Part 6 (education), so far as relating to vocational training.

(5) A pre-1975 Act enactment is an enactment contained in—

(a) an Act passed before the Sex Discrimination Act 1975;

(b) an instrument approved or made by or under such an Act (including one approved or made after the passing of the 1975 Act).

(6) If an Act repeals and re-enacts (with or without modification) a pre-1975 enactment then the provision re-enacted must be treated as being in a pre-1975 enactment.

(7) For the purposes of sub-paragraph (1)(c), a reference to a provision in Schedule 1 to the Employment Act 1989 includes a reference to a provision for the time being having effect in place of it.

(8) This paragraph applies only to the following protected characteristics—

(a) pregnancy and maternity;
(b) sex.

Commencement

Sch. 22 para. 2(1)-(8)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(d); SI 2012/1569 art. 3(f))

Extent

Sch. 22 para. 2-(8)(b): England, Wales, Scotland

Educational appointments, etc: religious belief

Law In Force

3

(1) A person does not contravene Part 5 (work) only by doing a relevant act in connection with the employment of another in a relevant position.

(2) A relevant position is—
(a) the head teacher or principal of an educational establishment;
(b) the head, a fellow or other member of the academic staff of a college, or institution in the nature of a college, in a university;
(c) a professorship of a university which is a canon professorship or one to which a canonry is annexed.

(3) A relevant act is anything it is necessary to do to comply with—
(a) a requirement of an instrument relating to the establishment that the head teacher or principal must be a member of a particular religious order;
(b) a requirement of an instrument relating to the college or institution that the holder of the position must be a woman;
(c) an Act or instrument in accordance with which the professorship is a canon professorship or one to which a canonry is annexed.

(4) Sub-paragraph (3)(b) does not apply to an instrument taking effect on or after 16 January 1990 (the day on which section 5(3) of the Employment Act 1989 came into force).

(5) A Minister of the Crown may by order provide that anything in sub-paragraphs (1) to (3) does not have effect in relation to—
(a) a specified educational establishment or university;
(b) a specified description of educational establishments.

(6) An educational establishment is—
(a) a school within the meaning of the Education Act 1996 or the Education (Scotland) Act 1980;
(b) a college, or institution in the nature of a college, in a university;

(c) an institution designated by order made, or having effect as if made, under section 129 of the Education Reform Act 1988;

[(ca) a registered higher education provider of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017; **]** [1]

(d) a college of further education within the meaning of section 36 of the Further and Higher Education (Scotland) Act 1992;

(e) a university in Scotland;

(f) an institution designated by order under section 28 of the Further and Higher Education Act 1992 or section 44 of the Further and Higher Education (Scotland) Act 1992.

(7) This paragraph does not affect paragraph 2 of Schedule 9.

Notes

[1] Added by Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019/1027 Pt 2 reg.12 (August 1, 2019)

Commencement

Sch. 22 para. 3(1)-(7): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(d); SI 2012/1569 art. 3(f))

Extent

Sch. 22 para. 3-(7): England, Wales, Scotland

Law In Force

4

A person does not contravene this Act only by doing anything which is permitted for the purposes of—

(a) section 58(6) or (7) of the School Standards and Framework Act 1998 (dismissal of teachers because of failure to give religious education efficiently);

(b) section 60(4) and (5) of that Act (religious considerations relating to certain appointments);

(c) section 124A of that Act (preference for certain teachers at independent schools of a religious character) **[** ; **]** [1]

[(d) section 124AA(5) to (7) of that Act (religious considerations relating to certain teachers at Academies with religious character). **]** [1]

Notes

[1] Added by Education Act 2011 c. 21 Pt 6 s.62(4)(c) (February 1, 2012)

Commencement

Sch. 22 para. 4(a)-(c): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(d); SI 2012/1569 art. 3(f))

Extent

Sch. 22 para. 4-(d): England, Wales, Scotland

Crown employment, etc.

Law In Force

5

(1) A person does not contravene this Act—

(a) by making or continuing in force rules mentioned in sub-paragraph (2);

(b) by publishing, displaying or implementing such rules;

(c) by publishing the gist of such rules.

(2) The rules are rules restricting to persons of particular birth, nationality, descent or residence—

(a) employment in the service of the Crown;

(b) employment by a prescribed public body;

(c) holding a public office (within the meaning of section 50).

(3) The power to make regulations for the purpose of sub-paragraph (2)(b) is exercisable by the Minister for the Civil Service.

(4) In this paragraph "public body" means a body (whether corporate or unincorporated) exercising public functions (within the meaning given by section 31(4)).

Commencement

Sch. 22 para. 5(1)-(4): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(d); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(d); SI 2012/1569 art. 3(f))

Extent

Sch. 22 para. 5-(4): England, Wales, Scotland

SCHEDULE 23

GENERAL EXCEPTIONS

Section 196

Law In Force

1 Acts authorised by statute or the executive

(1) This paragraph applies to anything done—

(a) in pursuance of an enactment;

(b) in pursuance of an instrument made by a member of the executive under an enactment;

(c) to comply with a requirement imposed (whether before or after the passing of this Act) by a member of the executive by virtue of an enactment;

(d) in pursuance of arrangements made (whether before or after the passing of this Act) by or with the approval of, or for the time being approved by, a Minister of the Crown;
(e) to comply with a condition imposed (whether before or after the passing of this Act) by a Minister of the Crown.

(2) A person does not contravene Part 3, 4, 5 or 6 by doing anything to which this paragraph applies which discriminates against another because of the other's nationality.

(3) A person (A) does not contravene Part 3, 4, 5 or 6 if, by doing anything to which this paragraph applies, A discriminates against another (B) by applying to B a provision, criterion or practice which relates to—
(a) B's place of ordinary residence;
(b) the length of time B has been present or resident in or outside the United Kingdom or an area within it.

Commencement

Sch. 23 para. 1(1)-(3)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(e); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(e); SI 2012/1569 art. 3(g))

Extent

Sch. 23 para. 1-(3)(b): England, Wales, Scotland

Law In Force

2 Organisations relating to religion or belief

(1) This paragraph applies to an organisation the purpose of which is—
(a) to practise a religion or belief,
(b) to advance a religion or belief,
(c) to teach the practice or principles of a religion or belief,
(d) to enable persons of a religion or belief to receive any benefit, or to engage in any activity, within the framework of that religion or belief, or
(e) to foster or maintain good relations between persons of different religions or beliefs.

(2) This paragraph does not apply to an organisation whose sole or main purpose is commercial.

(3) The organisation does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—
(a) membership of the organisation;
(b) participation in activities undertaken by the organisation or on its behalf or under its auspices;
(c) the provision of goods, facilities or services in the course of activities undertaken by the organisation or on its behalf or under its auspices;
(d) the use or disposal of premises owned or controlled by the organisation.

(4) A person does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by doing anything mentioned in sub-paragraph (3) on behalf of or under the auspices of the organisation.

(5) A minister does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—

(a) participation in activities carried on in the performance of the minister's functions in connection with or in respect of the organisation;

(b) the provision of goods, facilities or services in the course of activities carried on in the performance of the minister's functions in connection with or in respect of the organisation.

(6) Sub-paragraphs (3) to (5) permit a restriction relating to religion or belief only if it is imposed—

(a) because of the purpose of the organisation, or

(b) to avoid causing offence, on grounds of the religion or belief to which the organisation relates, to persons of that religion or belief.

(7) Sub-paragraphs (3) to (5) permit a restriction relating to sexual orientation only if it is imposed—

(a) because it is necessary to comply with the doctrine of the organisation, or

(b) to avoid conflict with strongly held convictions within sub-paragraph (9).

(8) In sub-paragraph (5), the reference to a minister is a reference to a minister of religion, or other person, who—

(a) performs functions in connection with a religion or belief to which the organisation relates, and

(b) holds an office or appointment in, or is accredited, approved or recognised for the purposes of the organisation.

(9) The strongly held convictions are—

(a) in the case of a religion, the strongly held religious convictions of a significant number of the religion's followers;

(b) in the case of a belief, the strongly held convictions relating to the belief of a significant number of the belief's followers.

[(9A) An organisation does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the organisation to be used—

(a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;

(b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(9B) A person (or a group of persons) does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the person (or the group) on behalf of an organisation to be used—

(a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;

(b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex.

(9C) An organisation does not contravene section 29 only by allowing an approved celebrant of the organisation to act as set out in sub-paragraph (1) or (2) of paragraph 25B of Schedule 3.

(9D) In sub-paragraphs (9A) to (9C), “approved celebrant”, “relevant Scottish marriage” and “relevant Scottish civil partnership” have the same meaning as in paragraph 25B of Schedule 3. **]** [1]

(10) This paragraph does not permit anything which is prohibited by section 29, so far as relating to sexual orientation, if it is done—

(a) on behalf of a public authority, and

(b) under the terms of a contract between the organisation and the public authority.

(11) In the application of this paragraph in relation to sexual orientation, sub-paragraph (1)(e) must be ignored.

(12) In the application of this paragraph in relation to sexual orientation, in sub-paragraph (3)(d), "disposal" does not include disposal of an interest in premises by way of sale if the interest being disposed of is—

(a) the entirety of the organisation's interest in the premises, or

(b) the entirety of the interest in respect of which the organisation has power of disposal.

(13) In this paragraph—

(a) "disposal" is to be construed in accordance with section 38;

(b) "public authority" has the meaning given in section 150(1).

Notes

[1] Added by Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014/3229 Sch.5 para.19(6) (December 16, 2014)

Commencement

Sch. 23 para. 2(1)-(13)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(e); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(e); SI 2012/1569 art. 3(g))

Extent

Sch. 23 para. 2-(13)(b): England, Wales, Scotland

Law In Force

3 Communal accommodation

(1) A person does not contravene this Act, so far as relating to sex discrimination or gender reassignment discrimination, only because of anything done in relation to—

(a) the admission of persons to communal accommodation;

(b) the provision of a benefit, facility or service linked to the accommodation.

(2) Sub-paragraph (1)(a) does not apply unless the accommodation is managed in a way which is as fair as possible to both men and women.

(3) In applying sub-paragraph (1)(a), account must be taken of—

(a) whether and how far it is reasonable to expect that the accommodation should be altered or extended or that further accommodation should be provided, and

(b) the frequency of the demand or need for use of the accommodation by persons of one sex as compared with those of the other.

(4) In applying sub-paragraph (1)(a) in relation to gender reassignment, account must also be taken of whether and how far the conduct in question is a proportionate means of achieving a legitimate aim.

(5) Communal accommodation is residential accommodation which includes dormitories or other shared sleeping accommodation which for reasons of privacy should be used only by persons of the same sex.

(6) Communal accommodation may include—

(a) shared sleeping accommodation for men and for women;

(b) ordinary sleeping accommodation;

(c) residential accommodation all or part of which should be used only by persons of the same sex because of the nature of the sanitary facilities serving the accommodation.

(7) A benefit, facility or service is linked to communal accommodation if—

(a) it cannot properly and effectively be provided except for those using the accommodation, and

(b) a person could be refused use of the accommodation in reliance on sub-paragraph (1)(a).

(8) This paragraph does not apply for the purposes of Part 5 (work) unless such arrangements as are reasonably practicable are made to compensate for—

(a) in a case where sub-paragraph (1)(a) applies, the refusal of use of the accommodation;

(b) in a case where sub-paragraph (1)(b) applies, the refusal of provision of the benefit, facility or service.

Commencement

Sch. 23 para. 3(1)-(8)(b): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(e); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(e); SI 2012/1569 art. 3(g))

Extent

Sch. 23 para. 3-(8)(b): England, Wales, Scotland

Law In Force

4 Training provided to non- [...][1] residents, etc.

(1) A person (A) does not contravene this Act, so far as relating to nationality, only by providing a non-resident (B) with training, if A thinks that B does not intend to exercise in Great Britain skills B obtains as a result.

(2) A non-resident is a person who is not ordinarily resident in **[** Great Britain **]**[2] .

(3) The reference to providing B with training is—

(a) if A employs B in relevant employment, a reference to doing anything in or in connection with the employment;

(b) if A as a principal allows B to do relevant contract work, a reference to doing anything in or in connection with allowing B to do the work;

(c) in a case within paragraph (a) or (b) or any other case, a reference to affording B access to facilities for education or training or ancillary benefits.

(4) Employment or contract work is relevant if its sole or main purpose is the provision of training in skills.

(5) In the case of training provided by the armed forces or Secretary of State for purposes relating to defence, sub-paragraph (1) has effect as if—

(a) **[...]**[3]

(b) in sub-paragraph (4), for "its sole or main purpose is" there were substituted "it is for purposes including".

(6) "Contract work" and "principal" each have the meaning given in section 41.

Notes

1 Word repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(9)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words substituted by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(9)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(9)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Sch. 23 para. 4(1)-(6): October 1, 2010 except for the purpose specified in SI 2010/2317 art.2(14)(e); October 1, 2012 otherwise (SI 2010/2317 art. 2(14)(e); SI 2012/1569 art. 3(g))

Extent

Sch. 23 para. 4-(6): England, Wales, Scotland

SCHEDULE 24

HARMONISATION: EXCEPTIONS

Section 203

Repealed

[…][1]

Notes

1 Repealed by Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305 Pt 2 reg.5(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

SCHEDULE 25

INFORMATION SOCIETY SERVICES

Section 206

Service providers

Law In Force

1

(1) This paragraph applies where a person concerned with the provision of an information society service (an "information society service provider") is established in Great Britain.

(2) This Act applies to anything done by the person in an EEA state (other than the United Kingdom) in providing the service as this Act would apply if the act in question were done by the person in Great Britain.

Commencement

Sch. 25 para. 1(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 1(1)-(2): England, Wales, Scotland

Law In Force

2

(1) This paragraph applies where an information society service provider is established in an EEA state (other than the United Kingdom).

(2) This Act does not apply to anything done by the person in providing the service.

Commencement

Sch. 25 para. 2(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 2(1)-(2): England, Wales, Scotland

Exceptions for mere conduits

Law In Force

3

(1) An information society service provider does not contravene this Act only by providing so much of an information society service as consists in—

(a) the provision of access to a communication network, or

(b) the transmission in a communication network of information provided by the recipient of the service.

(2) But sub-paragraph (1) applies only if the service provider does not—

(a) initiate the transmission,

(b) select the recipient of the transmission, or
(c) select or modify the information contained in the transmission.

(3) For the purposes of sub-paragraph (1), the provision of access to a communication network, and the transmission of information in a communication network, includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Commencement

Sch. 25 para. 3(1)-(4): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 3(1)-(4): England, Wales, Scotland

Exception for caching

Law In Force

4

(1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

(2) The information society service provider does not contravene this Act only by doing anything in connection with the automatic, intermediate and temporary storage of information so provided if—

(a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
(b) the condition in sub-paragraph (3) is satisfied.

(3) The condition is that the service-provider—

(a) does not modify the information,
(b) complies with such conditions as are attached to having access to the information, and
(c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.

(4) This sub-paragraph applies if the service-provider obtains actual knowledge that—

(a) the information at the initial source of the transmission has been removed from the network,
(b) access to it has been disabled, or
(c) a court or administrative authority has required the removal from the network of, or the disablement of access to, the information.

Commencement

Sch. 25 para. 4(1)-(4)(c): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 4(1)-(4)(c): England, Wales, Scotland

Exception for hosting

Law In Force

5

(1) An information society service provider does not contravene this Act only by doing anything in providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if—

(a) the service provider had no actual knowledge when the information was provided that its provision amounted to a contravention of this Act, or

(b) on obtaining actual knowledge that the provision of the information amounted to a contravention of that section, the service provider expeditiously removed the information or disabled access to it.

(2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority of the control of the service provider.

Commencement

Sch. 25 para. 5(1)-(2): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 5(1)-(2): England, Wales, Scotland

Monitoring obligations

Law In Force

6

An injunction or interdict under Part 1 of the Equality Act 2006 may not impose on a person concerned with the provision of a service of a description given in paragraph 3(1), 4(1) or 5(1)—

(a) a liability the imposition of which would contravene Article 12, 13 or 14 of the E-Commerce Directive;

(b) a general obligation of the description given in Article 15 of that Directive.

Commencement

Sch. 25 para. 6(a)-(b): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 6(a)-(b): England, Wales, Scotland

Interpretation

Law In Force

7

(1) This paragraph applies for the purposes of this Schedule.

(2) "Information society service" —

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

(b) is summarised in recital 17 of the E-Commerce Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service".

(3) "The E-Commerce Directive" means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

(4) "Recipient" means a person who (whether for professional purposes or not) uses an information society service, in particular for seeking information or making it accessible.

(5) An information society service-provider is "established" in a country or territory if the service-provider—

(a) effectively pursues an economic activity using a fixed establishment in that country or territory for an indefinite period, and

(b) is a national of an EEA state or a body mentioned in **[** Article 54 of the treaty on the Functioning of the European Union **]** [1] .

(6) The presence or use in a particular place of equipment or other technical means of providing an information society service is not itself sufficient to constitute the establishment of a service-provider.

(7) Where it cannot be decided from which of a number of establishments an information society service is provided, the service is to be regarded as provided from the establishment at the centre of the information society service provider's activities relating to that service.

(8) Section 212(4) does not apply to references to providing a service.

Notes

[1] Words substituted by Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012/1809 Sch.1(1) para.1 (August 1, 2012: substitution has effect subject to savings specified in SI 2012/1809 art.2(2))

Commencement

Sch. 25 para. 7(1)-(8): October 1, 2010 (SI 2010/2317 art. 2(15)(d))

Extent

Sch. 25 para. 7(1)-(8): England, Wales, Scotland

SCHEDULE 26

AMENDMENTS

Section 211

Local Government Act 1988

Law In Force

1

[Existing Sch.26 paras 1–4 are not repealed but have been renumbered as paras 9–12 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 1: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 1: England, Wales, Scotland

Law In Force

2

[Existing Sch.26 paras 1–4 are not repealed but have been renumbered as paras 9–12 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 2(a)-(b): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 2-(b): England, Wales, Scotland

Law In Force

3

[Existing Sch.26 paras 1–4 are not repealed but have been renumbered as paras 9–12 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 3: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 3: England, Wales, Scotland

Law In Force

4

[Existing Sch.26 paras 1–4 are not repealed but have been renumbered as paras 9–12 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 4: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 4: England, Wales, Scotland

Employment Act 1989

Law In Force

5

[Existing Sch.26 para.5 is not repealed but has been renumbered as para.15 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 para.5 is renumbered as Sch.26 para.15 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(b) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 5(1)-(4): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 5-(4): England, Wales, Scotland

Equality Act 2006

Law In Force

6

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 6: August 4, 2010 for the purpose specified in SI 2010/1966 art.3(b); October 1, 2010 as restructured by SI 2010/2279 Sch.1 para.1 otherwise (SI 2010/1966 art. 3(b); SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 6-: England, Wales, Scotland

Law In Force

7

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 7(1)-(3): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 7-(3): England, Wales, Scotland

Law In Force

8

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 8: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 8: England, Wales, Scotland

Law In Force

9

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 9: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 9: England, Wales, Scotland

Law In Force

10

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 10(1)-(3), (5): July 6, 2010 (SI 2010/1736 art. 3(1)(b))

Sch. 26 para. 10(4)-(4)(b), (6): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 10(1)-(6): England, Wales, Scotland

Law In Force

11

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 11: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 11: England, Wales, Scotland

Law In Force

12

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 12: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 12: England, Wales, Scotland

Law In Force

13

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 13: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 13: England, Wales, Scotland

Law In Force

14

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 14: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 14: England, Wales, Scotland

Law In Force

15

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 15: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 15: England, Wales, Scotland

Law In Force

16

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 16(1)-(2): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 16-(2): England, Wales, Scotland

Law In Force

17

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 17(1)-(8)(b): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 17-(8)(b): England, Wales, Scotland

Law In Force

18

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 18: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 18: England, Wales, Scotland

Law In Force

19

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 19(1)-(6): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 19-(6): England, Wales, Scotland

Law In Force

20

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 20: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 20: England, Wales, Scotland

Law In Force

21

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 21(1)-(3)(b): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 21-(3)(b): England, Wales, Scotland

Law In Force

22

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 22(1)-(3): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 22-(3): England, Wales, Scotland

Law In Force

23

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 23: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 23: England, Wales, Scotland

Law In Force

24

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 24: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 24: England, Wales, Scotland

Law In Force

25

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 25: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 25: England, Wales, Scotland

Law In Force

26

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 26: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 26: England, Wales, Scotland

Law In Force

27

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 27: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 27: England, Wales, Scotland

Law In Force

28

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 28(a)-(b): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 28-(b): England, Wales, Scotland

Law In Force

29

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 29(1)-(4): October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 29-(4): England, Wales, Scotland

Law In Force

30

[Existing Sch.26 paras 6–30 are not repealed but have been renumbered as paras 61–85 as part of the restructuring of Sch.26 **]** [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Commencement

Sch. 26 para. 30: October 1, 2010 original 2010 c.15 Sch.26 restructured by SI 2010/2279 Sch.1 para.1 on October 1, 2010 (SI 2010/2279 Sch. 1 para. 1; SI 2010/2317 art. 2(15)(e))

Extent

Sch. 26 para. 30: England, Wales, Scotland

[PART 1

Acts of Parliament

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[Disabled Persons (Employment) Act 1944] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[1.
In section 15 of the Disabled Persons (Employment) Act 1944[2] (provision of employment for seriously disabled persons), in subsection (5A), for "the Disability Discrimination Act 1995" substitute "the Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 1944 c. 10; section 15 was amended by the Disability Discrimination Act 1995 (c. 50), Section 61(1) to (5).

Extent

Sch. 26(1) para. 1: England, Wales, Scotland

[Teaching Council (Scotland) Act 1965] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[2.
In section 1(3) of the Teaching Council (Scotland) Act 1965[2], for "Disability Discrimination Act 1995" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 1965 c. 19; section 1(3) was inserted by the Teaching and Higher Education Act 1998 (c.30), section 16.

Extent

Sch. 26(1) para. 2: England, Wales, Scotland

[Employment and Training Act 1973] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[3.
In section 12(1) of the Employment and Training Act 1973[2] (duty of Secretary of State to give preference to ex-service men and women when exercising power to select disabled persons for employment, training, etc.), for "has the same meaning as in the Disability Discrimination Act 1995" substitute "has the same meaning as in the Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 1973 c. 50; section 12(1) was amended by the Employment Act 1988 (c. 19)Schedule 2, paragraph 2; the Employment Act 1989 (c. 38), Schedule 7, Part 1 and the Disability Discrimination Act 1995 (c. 50), Schedule 6, paragraph 1.

Extent

Sch. 26(1) para. 3: England, Wales, Scotland

[Estate Agents Act 1979] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[4.

The Estate Agents Act 1979 is amended as follows.

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 4: England, Wales, Scotland

Law In Force

[5.

In section 5(3)[2] (supplementary provisions about prohibition and warning orders)—

(a) for "section 62 of the Sex Discrimination Act 1975, section 53 of the Race Relations Act 1976" substitute "section 113 of the Equality Act 2010 (proceedings)"; and

(b) omit "those Acts and".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 5(3) was amended by the Enterprise Act 2002 (c. 40), Schedule 25, paragraph 9(1) and (4) and S.I. 1997/869, Schedule 2, paragraph 2(1).

Extent

Sch. 26(1) para. 5(a)-(b): England, Wales, Scotland

Law In Force

[6.—

(1) Schedule 1 (provisions supplementary to section 3(1)) is amended as follows.

(2) For paragraph 2[2] substitute—

"2.—

(1) A person commits discrimination for the purposes of section 3(1)(b) in the following cases only.

(2) The first case is where—

(a) the person has been found to have contravened a relevant equality provision, and

(b) no appeal against the finding is pending or can be brought.

(3) The second case is where—

(a) the person has been given an unlawful act notice under section 21 of the Equality Act 2006,

(b) the notice specifies a relevant equality provision as the provision by virtue of which the act in question is unlawful, and

(c) no appeal against the giving of the notice is pending or can be brought.

(4) The third case is where—

(a) the person is the subject of an injunction, interdict or order under section 24 of the Equality Act 2006 (unlawful acts), and

(b) the unlawful act in question is a contravention of a relevant equality provision.

(5) The relevant equality provisions are—

(a) Parts 3 and 4 of the Equality Act 2010 (services and premises) so far as relating to discrimination and victimisation, and

(b) section 112 of that Act (aiding contraventions) in relation to either of those Parts of that Act so far as relating to discrimination and victimisation."

(3) In paragraph 3 for "discrimination" substitute "a contravention of a relevant equality provision".

(4) For paragraph 4[3] substitute—

"4.

For the purposes of paragraphs 2 and 3"discrimination" and "victimisation" have the same meaning as in the Equality Act 2010.".

] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Schedule 1, paragraph 2 was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraphs 36 and 38 and Schedule 4.

3 Schedule 1, paragraph 4 was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraphs 36 and 38 and Schedule 4.

Extent

Sch. 26(1) para. 6(1)-(4): England, Wales, Scotland

[Civic Government (Scotland) Act 1982] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[7.—

(1) Section 20 of the Civic Government (Scotland) Act 1982 (regulations relating to taxis and private hire cars and their drivers) is amended as follows.

(2) In subsection (2A)[2] for "section 1(2) of the Disability Discrimination Act 1995" substitute "section 6 of the Equality Act 2010".

(3) In subsection (2AA)[3] for "section 1(2) of the Disability Discrimination Act 1995 (c.50)" substitute "section 6 of the Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 20(2A) was inserted by the Disability Discrimination Act 1995 (c. 50), section 39(3).

[3] Section 20(2AA) was inserted by the Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002 (c. 37), section 2.

Extent

Sch. 26(1) para. 7(1)-(3): England, Wales, Scotland

[Housing (Scotland) Act 1987] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[8.

In section 338(1) of the Housing (Scotland) Act 1987[2] (interpretation) in the definition of "disabled person" for "Disability Discrimination Act 1995 (c.50)," substitute "Equality Act 2010,".".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.2 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] The definition of "disabled person" in section 338(1) was amended by the Housing (Scotland) Act 2006 (2006 asp 1), Schedule 6.

Extent

Sch. 26(1) para. 8: England, Wales, Scotland

[Local Government Act 1988] [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[9

Part 2 of the Local Government Act 1988 (public supply or works contracts) is amended as follows.

] [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 9: England, Wales, Scotland

Law In Force

[10

In section 17 (local and other public authority contracts: exclusion of non-commercial considerations)—

(a) omit subsection (9), and

(b) after that subsection insert—

"(10) This section does not prevent a public authority to which it applies from exercising any function regulated by this section with reference to a non-commercial matter to the extent that the authority considers it necessary or expedient to do so to enable or facilitate compliance with—

(a) the duty imposed on it by section 149 of the Equality Act 2010 (public sector equality duty), or

(b) any duty imposed on it by regulations under section 153 or 154 of that Act (powers to impose specific duties)."

] [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 10(a)-(b): England, Wales, Scotland

Law In Force

[11

Omit section 18 (exceptions to section 17 relating to race relations matters).

] [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 11: England, Wales, Scotland

Law In Force

[12

In section 19 (provisions supplementary to or consequential on section 17) omit subsection (10).

] [1]

Notes

[1] Sch.26 paras 1-4 are renumbered as Sch.26 paras 9-12 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(a) (October 1, 2010: Sch.26 paras 9-12 as renumbered are in force from April 5, 2011 as specified in SI 2011/1066 art.2(g)(i); for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 12: England, Wales, Scotland

[Employment Act 1989] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.3 (October 1, 2010)

Law In Force

[13.
The Employment Act 1989 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.3 (October 1, 2010)

Extent

Sch. 26(1) para. 13: England, Wales, Scotland

Law In Force

[14.
In section 8 (exemption for discrimination in favour of lone parents in connection with training), in subsection (2), for the words from "for the purposes of the 1975 Act" to the end substitute "for the purposes of the Equality Act 2010 as giving rise to any contravention of Part 5 of that Act, so far as relating to marriage and civil partnership discrimination (within the meaning of that Act).".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.3 (October 1, 2010)

Extent

Sch. 26(1) para. 14: England, Wales, Scotland

Law In Force

[15

(1) **[** Section 12 **]** [2] (Sikhs: requirements as to safety helmets) is amended as follows.

(2) In subsection (1), for "requirement or condition", in the first three places, substitute "provision, criterion or practice".

(3) In that subsection, for the words from "section 1(1)(b)" to the end substitute "section 19 of the Equality Act 2010 (indirect discrimination), the provision, criterion or practice is to be taken as one in relation to which the condition in subsection (2)(d) of that section (proportionate means of achieving a legitimate aim) is satisfied".

(4) In subsection (2), for the words from "the Race Relations Act" to the end substitute "section 13 of the Equality Act 2010 as giving rise to discrimination against any other person".
] [1]

Notes

1 Sch.26 para.5 is renumbered as Sch.26 para.15 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(b) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Words repealed by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.4 (October 1, 2010)

Extent

Sch. 26(1) para. 15(1)-(4): England, Wales, Scotland

Law In Force

[16.
In section 28[2] (orders etc.), omit subsections (2), (3) and (4)(a).
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 28 was amended by the Equality Act 2006 (c. 3), Schedule 3, paragraph 40 and the Education and Inspections Act 2006 (c.40); Schedule 18, Part II. The functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Schedule 1.

Extent

Sch. 26(1) para. 16: England, Wales, Scotland

Law In Force

[17.
In section 29(1)[2] (interpretation), omit the definition of "the 1975 Act".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 29(1) was amended by the Employment Rights Act 1996 (c. 18), Schedule 3, Part I.

Extent

Sch. 26(1) para. 17: England, Wales, Scotland

[Local Government and Housing Act 1989] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[18.
In section 7(2) of the Local Government and Housing Act 1989[2] (requirement for appointments to be on merit to be subject to discrimination law)—

(a) omit paragraphs (c), (d) and (f), and

(b) at the end insert—

"(g) sections 39, 40 and 49 to 51 of the Equality Act 2010 (employees and office-holders), so far as relating to disability, and Schedule 8 to that Act (reasonable adjustments for disabled persons) so far as it applies in relation to sections 39 and 49 to 51 of that Act;

(h) paragraph 1 of Schedule 9 to that Act (occupational requirements), so far as relating to sex, pregnancy and maternity, marriage and civil partnership, gender reassignment or race.".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 1989 c.42; section 7(2) was amended by the Disability Discrimination Act 1995 (c. 50), Schedule 6, paragraph 5 and Schedule 7; the Fire and Rescue Services Act 2004 (c. 21), Schedule 2 and by S.I. 2003/1673, regulation 31(1). By virtue of the Environment Act 1995 (c. 25), Schedule 7, paragraph 13(7) the section also applies to any paid office or employment under a National Park authority.

Extent

Sch. 26(1) para. 18(a)-(b): England, Wales, Scotland

[Enterprise and New Towns (Scotland) Act 1990] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[19.
The Enterprise and New Towns (Scotland) Act 1990 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 19: England, Wales, Scotland

Law In Force

[20.
In section 2(4)(a)[2] (functions in relation to training for employment etc.) for “section 3(1) of the Race Relations Act 1976” substitute “section 9 of the Equality Act 2010”.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 2(4)(a) was amended by Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(2) and (4)(b).

Extent

Sch. 26(1) para. 20: England, Wales, Scotland

Law In Force

[21.

In section 16(2)[2] (courses of training etc.: duty to give preference to certain categories) for "Disability Discrimination Act 1995" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 16(2) was amended by the Disability Discrimination Act 1995 (c. 50), Schedule 6, paragraph 6.

Extent

Sch. 26(1) para. 21: England, Wales, Scotland

Law In Force

[22.

For section 17 (encouragement of women, members of minority racial groups and disabled persons to take advantage of opportunities for certain work etc) substitute—

Encouragement of women, members of ethnic minorities and disabled persons to take up certain employment opportunities and training

"17

(1) Scottish Enterprise and Highlands and Islands Enterprise shall each, in exercising its functions, promote such actings by any employer as are lawful by virtue of section 158 of the Equality Act 2010 (the "2010 Act") (positive action: general) in relation to—

(a) affording access to facilities for training, and

(b) encouraging persons to take advantage of opportunities for taking up that employer's work.

(2) This section applies to the protected characteristics of sex, race and disability within the meaning of the 2010 Act.

(3) This section is without prejudice to paragraph (a) of section 2(4) of this Act or to any provision of the 2010 Act prohibiting discrimination within the meaning of that Act.".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 22: England, Wales, Scotland

[Further and Higher Education Act 1992] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[23.

In section 62(7B) of the Further and Higher Education Act 1992[2] (higher education funding councils) for "Disability Discrimination Act 1995" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 62(7B) was inserted by the Disability Discrimination Act 1995 (c. 50), section 30(5).

Extent

Sch. 26(1) para. 23: England, Wales, Scotland

[Trade Union and Labour Relations (Consolidation) Act 1992] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[24.—

(1) Schedule A2 to the Trade Union and Labour Relations (Consolidation) Act 1992[2] (tribunal jurisdictions where failure by employer or employee to comply with applicable code of practice may affect the level of damages) is amended as follows.

(2) Omit the entries relating to—

(a) the Equal Pay Act 1970;
(b) the Sex Discrimination Act 1975;
(c) the Race Relations Act 1976;
(d) the Disability Discrimination Act 1995;
(e) the Employment Equality (Sexual Orientation) Regulations 2003;
(f) the Employment Equality (Religion or Belief) Regulations 2003;
(g) the Employment Equality (Age) Regulations 2006.

(3) At the end of the entries relating to provisions of Acts, insert—

"Sections 120 and 127 of the Equality Act 2010 (discrimination etc in work cases)"

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Schedule A2 was inserted by the Employment Act 2008 (c. 24), section 3(3).

Extent

Sch. 26(1) para. 24(1)-(3): England, Wales, Scotland

[Trade Union Reform and Employment Rights Act 1993] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[25.
In section 39(2) of the Trade Union Reform and Employment Rights Act 1993[2] (agreements not to take proceedings before employment tribunal) omit "the Sex Discrimination Act 1975, the Race Relations Act 1976, and".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 39(2) was amended by the Employment Rights Act 1996 (c. 18), Schedule 3, Part I.

Extent

Sch. 26(1) para. 25: England, Wales, Scotland

Law In Force

[26.
In Schedule 6[2] (compromise contracts) omit paragraphs 1 and 2.
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Schedule 6 was amended by the Employment Rights Act 1996 (c. 18), Schedule 3 Part 1 and the Employment Rights (Dispute Resolution) Act (c. 8) 1998, Schedule 2.

Extent

Sch. 26(1) para. 26: England, Wales, Scotland

[Employment Tribunals Act 1996] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[27.
The Employment Tribunals Act 1996 is amended as follows.

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 27: England, Wales, Scotland

Law In Force

[28.

In section 5(2)(c) (remuneration, fees and allowances) for "2A(1)(b) of the Equal Pay Act 1970" substitute "131(2) of the Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 28: England, Wales, Scotland

Law In Force

[29.

In section 7(3)(h)[2] (employment tribunal procedure regulations) for "2A(1)(b) of the Equal Pay Act 1970" substitute "131(2) of the Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 7(3)(h) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a).

Extent

Sch. 26(1) para. 29: England, Wales, Scotland

Law In Force

[30.

In section 12(1)[2] (restriction of publicity in disability cases) for "section 17A or 25(8) of the Disability Discrimination Act 1995" substitute "section 120 of the Equality Act 2010, where the complaint relates to disability".

] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 12(1) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a) and S.I. 2003/1673regulation 31(2).

Extent

Sch. 26(1) para. 30: England, Wales, Scotland

Law In Force

[31.

In section 18(1) (tribunal proceedings to which conciliation provisions apply)—

(a) for paragraph (a)[2] substitute—

"(a) under section 120 or 127 of the Equality Act 2010,"

, and

(b) omit paragraphs (c), (k), (l) and (r)[3] .

] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 18(1)(a) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a).

3 Paragraph (c) was amended by S.I. 2003/1673, regulation 31(2). Paragraph (k) was inserted by S.I. 2003/1661, Schedule 5, paragraph 1(a)(ii); paragraph (l) was inserted by S.I. 2003/1660, Schedule 5, paragraph 1(a)(ii) and paragraph (r) was inserted by S.I. 2006/1031, Schedule 8, paragraphs 18 and 19(1) and (3).

Extent

Sch. 26(1) para. 31(a)-(b): England, Wales, Scotland

Law In Force

[32.

In section 21(1)[2] (Jurisdiction of appeal tribunal)—

(a) omit paragraphs (a), (b), (c), (e),(l), (m) and (s)[3] ; and.

(b) at the end of the entries relating to provisions in Acts, insert—

"(ge) the Equality Act 2010,".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 21(1) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a).

[3] Paragraph (l) was inserted by S.I. 2003/1661, Schedule 5 paragraph 1(b)(ii); paragraph (m) by S.I. 2003/1660, Schedule 6, paragraph 1(b)(ii) and paragraph (s) by S.I. 2006/1031, Schedule 8, paragraphs 18 and 20(1) and (3).

Extent

Sch. 26(1) para. 32(a)-(b): England, Wales, Scotland

[Employment Rights Act 1996] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[33.—

(1) Section 126 of the Employment Rights Act 1996 (acts which are both unfair dismissal and discrimination) is amended as follows.

(2) In subsection (1) for paragraph (b)[2] substitute—

"(b) the Equality Act 2010.".

(3) In subsection (2)[3] —

(a) for "any one of those Acts or Regulations" substitute "either of those Acts", and

(b) for "any other of them" substitute "the other".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 126(1)(b) was substituted by S.I. 2006/1031, Schedule 8, paragraphs 21 and 29.

[3] Subsection (2) was amended by the Employment Rights (Dispute Resolution) Act 1998, sections 1(2)(a) and 14(4) and Schedule 2.

Extent

Sch. 26(1) para. 33(1)-(3)(b): England, Wales, Scotland

[Housing Grants, Construction and Regeneration Act 1996] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[34.
In section 126 of the Housing Grants, Construction and Regeneration Act 1996[2] (Secretary of State's power to give financial assistance etc), in subsection (3), in the definition of "racial group", for "the Race Relations Act 1976" substitute "section 9 of the Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] The functions of the Secretary of State, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) Schedule 1.

Extent

Sch. 26(1) para. 34: England, Wales, Scotland

[Education Act 1996] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[35.
The Education Act 1996 is amended as follows.

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 35: England, Wales, Scotland

Law In Force With Amendments Pending

[36.—

(1) Section 317 of the Education Act 1996 (duties of governing bodies etc in relation to pupils with special educational needs) is amended as follows.

(2) In subsection (6)(b)(iv)[2] for "section 28D of the Disability Discrimination Act 1995 ("the 1995 Act")" substitute "paragraph 3 of Schedule 10 to the Equality Act 2010 ("the 2010 Act")".

(3) For subsection (6A) substitute—

> "(6A) In subsection (6)(b)"disabled person" means a person who is a disabled person for the purposes of the 2010 Act; and section 89 (interpretation of Part 6) of, and paragraph 6 of Schedule 10 (supplementary provisions for Schedule 10) to, the 2010 Act apply for the purposes of subsection (6)(b) as they apply for the purposes of Part 6 of and Schedule 10 to that Act.".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 317(6) (along with subsections (5) and (6A)) were substituted by the Education Act 2005 (c. 18), Schedule 18, paragraph 2.

Amendments Pending

Sch. 26(1) para. 36: repealed by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch. 1 para. 6(o) (date to be appointed)

Extent

Sch. 26(1) para. 36(1)-(3): England, Wales, Scotland

Law In Force With Amendments Pending

[37.
In section 336(4A)[2] (tribunal procedure) for "claim under Chapter 1 of Part 4 of the Disability Discrimination Act 1995" substitute "claim in relation to a contravention of Chapter 1 of Part 6 of the Equality Act 2010 so far as relating to disability.".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Subsection 336(4A) was inserted by the Special Educational Needs Tribunal Act 2001 (c. 10), Schedule 8, paragraphs 1, 13(1) and (5). It was amended by S.I. 2008/2833, Schedule 3 paragraphs 127 and 133.

Amendments Pending

Sch. 26(1) para. 37: repealed by Additional Learning Needs and Education Tribunal (Wales) Act 2018 anaw. 2 Sch. 1 para. 6(o) (date to be appointed)

Extent

Sch. 26(1) para. 37: England, Wales, Scotland

Law In Force

[38.
In section 509AC(5)[2] (interpretation etc), in the definition of "disabled person", for "Disability Discrimination Act 1995" substitute "Equality Act 2010".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 509AC was inserted by the Education Act 2002 (c. 32)Schedule 19 paragraphs 1 and 5.

Extent

Sch. 26(1) para. 38: England, Wales, Scotland

Law In Force

[39.
Omit section 583(5) (commencement etc: transitory provision relating to the Disability Discrimination Act 1995).
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 39: England, Wales, Scotland

Law In Force

[40.
In Schedule 35B[2] (meaning of eligible child etc), paragraph 15(4), for "Disability Discrimination Act 1995" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Schedule 35A was inserted by the Education and Inspections Act 2006 (c. 40), Schedule 8.

Extent

Sch. 26(1) para. 40: England, Wales, Scotland

Law In Force

[41.
In Schedule 35C[2] (school travel schemes), paragraph 14, in the definition of "disabled child", for "Disability Discrimination Act 1995" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Schedule 35C was inserted by the Education and Inspections Act 2006 (c. 40), Schedule 9.

Extent

Sch. 26(1) para. 41: England, Wales, Scotland

Law In Force

[42.—

(1) In Schedule 36A[2] (education functions of local authorities) the table is amended as follows.

(2) Omit the entries relating to the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995.

(3) Insert at the end—

"Equality Act 2010 (c. 15)	
Section 29(7) in its application to a local authority's functions under the Education Acts	Duty to make reasonable adjustments for disabled persons.
Section 85(6)	Duty (as responsible body) to make reasonable adjustments for disabled pupils.
Section 92(6)	Duty (as responsible body) to make reasonable adjustments for disabled persons in further and higher education.
Section 93(6)	Duty (as responsible body) to make reasonable adjustments for disabled persons in the provision of recreational or training facilities.
paragraph 1 of Schedule 10	Duty to prepare and implement accessibility strategy.
paragraph 3 of Schedule 10	Duty (as responsible body) to prepare and implement an accessibility plan."

] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Schedule 36A was inserted by S.I. 2010/1158.

Extent

Sch. 26(1) para. 42(1)-(3): England, Wales, Scotland

[Teaching and Higher Education Act 1998] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[43.

In section 1(4) of the Teaching and Higher Education Act 1998[2] (the General Teaching Council for England) for "Disability Discrimination Act 1995" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Functions of the Secretary of State under Part 1 of this Act, so far as exercisable in Wales were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), Schedule 1.

Extent

Sch. 26(1) para. 43: England, Wales, Scotland

[School Standards and Framework Act 1998] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[44.

The School Standards and Framework Act 1998 is amended as follows.

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 44: England, Wales, Scotland

Law In Force

[45.

In Schedule 5, in paragraph 6[2] (adjudicators, procedure) for subparagraphs (a) to (c) substitute—

"(a) section 71 of the Race Relations Act 1976, or
(b) Parts 3 and 6 of the Equality Act 2010,".

] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Paragraph 6 of Schedule 5 was amended by the Race Relations (Amendment) Act 2000 (c. 34), Schedule 2, paragraph 31 and by the Special Educational Needs and Disability Act 2001 (c. 10), Schedule 8, paragraph 23(1) and (3) and Schedule 9.

Extent

Sch. 26(1) para. 45: England, Wales, Scotland

Law In Force

[46.—

(1) In Schedule 6, Part 5 (procedures for making transitional exemption orders in Wales) paragraph 22(4)[2] is amended as follows.

(2) For the definition of "the 1975 Act" substitute—

""the 2010 Act" means the Equality Act 2010,".

(3) In the definition of "the responsible body" for "section 22 of the 1975 Act" substitute "section 85 of the 2010 Act".

(4) In the definition of "transitional exemption order" for "section 27 of the 1975 Act" substitute "paragraph 3 of Schedule 11 to the 2010 Act".

(5) For "section 27(1) of the 1975 Act" substitute "paragraph 3 of Schedule 11 to the 2010 Act". **]** [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Paragraph 22(4) of Schedule 6, was inserted by the Education and Inspections Act 2006 (c. 40), Schedule 3, paragraph 33(1) and (18)(c).

Extent

Sch. 26(1) para. 46(1)-(5): England, Wales, Scotland

Law In Force

[47.—

(1) In Schedule 7, in Part 6 (transitional exemption orders, interpretation) paragraph 16(6)[2] is amended as follows.

(2) For the definition of the 1975 Act substitute—

""the 2010 Act" means the Equality Act 2010,"

(3) In the definition of "the responsible body" for "section 22 of the 1975 Act" substitute "section 85 of the 2010 Act".

(4) In the definition of "transitional exemption order" for "section 27 of the 1975 Act" substitute "paragraph 3 of Schedule 11 to the 2010 Act".

(5) For "section 27(1) of the 1975 Act" substitute "paragraph 3 of Schedule 11 to the 2010 Act".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Paragraph 16 of Schedule 7 was repealed by Education Act 2005 (c. 18), Schedule 12, paragraph 14(1) and (14) and Schedule 19, Part 2. The repeal has not yet been brought into force in respect of subparagraph 16(6) as the definitions in that sub-paragraph, apply for the purposes of paragraph 17 of Schedule 7.

Extent

Sch. 26(1) para. 47(1)-(5): England, Wales, Scotland

[Transport Act 2000] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[48.
In section 112(2) of the Transport Act 2000[2] (plans and strategies: supplementary) for "Disability Discrimination Act 1995" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 2000 c. 38; section 112(2) was amended by the Local Transport Act 2008 (c. 26)sections 10(1), (3) and (5), 11 (1) and (2) and Schedule 7 Part 1.

Extent

Sch. 26(1) para. 48: England, Wales, Scotland

[Employment Act 2002] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[49.—

(1) Schedule 5 to the Employment Act 2002 (tribunal jurisdiction) is amended as follows.

(2) Omit the entries relating to—

(a) the Equal Pay Act 1970;
(b) the Sex Discrimination Act 1975;
(c) the Race Relations Act 1976;
(d) the Disability Discrimination Act 1995[2] ;
(e) the Employment Equality (Sexual Orientation) Regulations 2003[3] ;
(f) the Employment Equality (Religion or Belief) Regulations 2003[4] ;
(g) the Employment Equality (Age) Regulations 2006[5] .

(3) At the end of the entries relating to provisions of Acts, insert—

"Sections 120 and 127 of the Equality Act 2010 (discrimination etc in work cases)".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Reference to this Act amended by S.I. 2003/1673.

[3] Reference to these Regulations inserted by S.I. 2003/1661, Schedule 5, paragraph 4(c).

[4] Reference to these Regulations inserted by S.I. 2003/1660, Schedule 5, paragraph 4(c).

[5] References to these Regulations inserted by S.I. 2006/1031, Schedule 8, paragraph 36(1) and (2)(c).

Extent

Sch. 26(1) para. 49(1)-(3): England, Wales, Scotland

[Income Tax (Earnings and Pensions) Act 2003] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[50.
The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 50: England, Wales, Scotland

Law In Force

[51.
In section 439(4)[2] (chargeable events) after "within the meaning of" insert "the Equality Act 2010 in England and Wales and Scotland, or ".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 Section 439 was substituted by the Finance Act 2003(c.14), Schedule 22, paragraphs 1 and 4(1).

Extent

Sch. 26(1) para. 51: England, Wales, Scotland

Law In Force

[52.
In section 477(5)[2] (chargeable events) after "within the meaning of" insert "the Equality Act 2010 in England and Wales and Scotland, or ".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 477 was substituted by the Finance Act 2003, Schedule 22 paragraphs 1 and 10(1).

Extent

Sch. 26(1) para. 52: England, Wales, Scotland

[Communications Act 2003] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[53.
The Communications Act 2003 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 53: England, Wales, Scotland

Law In Force

[54.
In section 27(5) (training and equality of opportunity)—

(a) in the definition of "disabled" after "meaning as in" insert "the Equality Act 2010 or, in Northern Ireland,", and

(b) in the definition of "racial group" for "Race Relations Act 1976 (c 74)" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 54(a)-(b): England, Wales, Scotland

Law In Force

[55.

In section 337(9) (promotion of equal opportunities and training)—

(a) in the definition of "disabled" after "meaning as in" insert "the Equality Act 2010 or, in Northern Ireland,", and

(b) in the definition of "racial group" for "Race Relations Act 1976 (c 74)" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 55(a)-(b): England, Wales, Scotland

Law In Force

[56.

In Schedule 12, in paragraph 23(6) (obligations of the Welsh Authority in relation to equality of opportunity)—

(a) in the definition of "disability" after "meaning as in" insert "the Equality Act 2010 or, in Northern Ireland,", and

(b) in the definition of "racial group" for "Race Relations Act 1976 (c 74)" substitute "the Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 56(a)-(b): England, Wales, Scotland

[Finance Act 2004] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[57.

The Finance Act 2004 is amended as follows.

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 57: England, Wales, Scotland

Law In Force

[58.

In section 172A(5)(db)[2] (surrender of pension benefits etc) for—

(a) "the Employment Equality (Age) Regulations 2006 or" substitute "Part 5 of the Equality Act 2010, so far as relating to age, or the", and

(b) for "them" substitute "those Regulations.".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Section 172A(5)(db) was inserted by the Finance Act 2007 (c.11)Schedule 20, paragraphs 1 and 6(1) and (2).

Extent

Sch. 26(1) para. 58(a)-(b): England, Wales, Scotland

Law In Force

[59.

In paragraphs 11D(2A) and (2B)(b), 12(2C)(d) and 14(3A) and (3D)(a)[2] of Schedule 36 (pension schemes etc: transitional provisions and savings)—

(a) for "the Employment Equality (Age) Regulations 2006, or" substitute "Part 5 of the Equality Act 2010, so far as relating to age, or the", and

(b) for "them" substitute "those Regulations.".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] Paragraphs 11(2A) to (2C), 12(2A) to (2C) and 14(3A) to (3D) were inserted by the Finance Act 2006 (c. 25), Schedule 20, paragraphs 1 and 15, 16, 17(1) and (3) and 18.

Extent

Sch. 26(1) para. 59(a)-(b): England, Wales, Scotland

[Serious Organised Crime and Police Act 2005] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[60.

Section 56 of the Serious Organised Crime and Police Act 2005[2] (the title to which becomes "Application of discrimination legislation to SOCA seconded staff: Northern Ireland") is amended as follows—

(a) in subsection (2), omit paragraphs (a) and (b); and

(b) in subsection (4), omit paragraphs (a), (b), (g) and (h) and the "and" preceding each of paragraphs (g) and (h).

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.5 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[2] 2005 c.15; section 56 was amended by the Equality Act 2006 (c. 3), section 75(5) and S.I. 2007/1263, regulation 31(5).

Extent

Sch. 26(1) para. 60(a)-(b): England, Wales, Scotland

[Equality Act 2006] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[61

The Equality Act 2006 is amended as follows.

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 61: England, Wales, Scotland

Law In Force

[62

(1) Section 8 (equality and diversity) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (d) for "equality enactments" substitute "Equality Act 2010", and

(b) in paragraph (e) for "the equality enactments" substitute "that Act".

(3) In subsection (4) for "Disability Discrimination Act 1995 (c. 50)" substitute "Equality Act 2010".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 62(1)-(3): England, Wales, Scotland

Law In Force

[63

In section 10(2) (meaning of group) for paragraph (d) substitute—

> "(d) gender reassignment (within the meaning of section 7 of the Equality Act 2010),".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 63: England, Wales, Scotland

Law In Force

[64

For section 11(3)(c) (interpretation) substitute—

> "(c) a reference to the equality and human rights enactments is a reference to the Human Rights Act 1998, this Act and the Equality Act 2010."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 64: England, Wales, Scotland

Law In Force

[65

(1) Section 14 (codes of practice) is amended as follows.

(2) For subsection (1) substitute—

"(1) The Commission may issue a code of practice in connection with any matter addressed by the Equality Act 2010."

(3) In subsection (2)(a) for "a provision or enactment listed in subsection (1)" substitute "the Equality Act 2010 or an enactment made under that Act".

(4) In subsection (3)—

(a) in paragraph (a) for "section 49G(7) of the Disability Discrimination Act 1995 (c. 50)" substitute "section 190(7) of the Equality Act 2010", and

(b) for paragraph (c)(iv) substitute—

"(iv) section 190 of the Equality Act 2010."

(5) In subsection (5)(a) for "listed in subsection (1)" substitute "a matter addressed by the Equality Act 2010".

(6) In subsection (9) for "section 76A" to "duties)" substitute "section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty)".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 65(1)-(6): England, Wales, Scotland

Law In Force

[66

In section 16(4) (inquiries: matters which the Commission may consider and report on) for "equality enactments" substitute "Equality Act 2010".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 66: England, Wales, Scotland

Law In Force

[67

In section 21(2)(b) (unlawful act notice: specification of legislative provision) for "equality enactments" substitute "Equality Act 2010".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 67: England, Wales, Scotland

Law In Force

[68

After section 24 insert—

"24A Enforcement powers: supplemental

(1) This section has effect in relation to—

(a) an act which is unlawful because, by virtue of any of sections 13 to 18 of the Equality Act 2010, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act,

(b) an act which is unlawful because it amounts to a contravention of section 60(1) of that Act (or to a contravention of section 111 or 112 of that Act that relates to a contravention of section 60(1) of that Act) (enquiries about disability and health),

(c) an act which is unlawful because it amounts to a contravention of section 106 of that Act (information about diversity in range of election candidates etc.),

(d) an act which is unlawful because, by virtue of section 108(1) of that Act, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act, or

(e) the application of a provision, criterion or practice which, by virtue of section 19 of that Act, amounts to a contravention of that Act.

(2) For the purposes of sections 20 to 24 of this Act, it is immaterial whether the Commission knows or suspects that a person has been or may be affected by the unlawful act or application.

(3) For those purposes, an unlawful act includes making arrangements to act in a particular way which would, if applied to an individual, amount to a contravention mentioned in subsection (1)(a).

(4) Nothing in this Act affects the entitlement of a person to bring proceedings under the Equality Act 2010 in respect of a contravention mentioned in subsection (1)."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 68: England, Wales, Scotland

Law In Force

[69

Omit section 25 (restraint of unlawful advertising etc.).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 69: England, Wales, Scotland

Law In Force

[70

Omit section 26 (supplemental).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 70: England, Wales, Scotland

Law In Force

[71

(1) Section 27 (conciliation) is amended as follows.

(2) For subsection (1) (disputes in relation to which the Commission may make arrangements for the provision of conciliation services) substitute—

"(1) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be determined by virtue of section 114 of the Equality Act 2010."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 71(1)-(2): England, Wales, Scotland

Law In Force

[72

(1) Section 28 (legal assistance) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) for "equality enactments" substitute "Equality Act 2010", and

(b) in paragraph (b) for "the equality enactments" substitute "that Act".

(3) In subsection (5) for "Part V of the Disability Discrimination Act 1995 (c. 50) (public" substitute "Part 12 of the Equality Act 2010 (disabled persons:".

(4) In subsection (6)—

(a) for "the equality enactments", on the first occasion it appears, substitute "the Equality Act 2010", and

(b) for "the equality enactments", on each other occasion it appears, substitute "that Act".

(5) In subsection (7)—

(a) in paragraph (a) for "equality enactments" substitute "Equality Act 2010", and

(b) in paragraph (b) for "the equality enactments" substitute "that Act".

(6) In subsection (8) for "Part V of the Disability Discrimination Act 1995 (c. 50)" substitute "Part 12 of the Equality Act 2010".

(7) In subsection (9) for "equality enactments" substitute "Equality Act 2010".

(8) In subsection (12)—

(a) for "A reference in" to "includes a reference" substitute "This section applies", and

(b) after paragraph (b) add "as it applies to the Equality Act 2010."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 72(1)-(8)(b): England, Wales, Scotland

Law In Force

[73

For section 31(1) (duties in respect of which Commission may assess compliance) substitute—

> "(1) The Commission may assess the extent to which or the manner in which a person has complied with a duty under or by virtue of section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty)."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 73: England, Wales, Scotland

Law In Force

[74

(1) Section 32 (public sector duties: compliance notice) is amended as follows.

(2) For subsection (1) substitute—

> "(1) This section applies where the Commission thinks that a person has failed to comply with a duty under or by virtue of section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty)."

(3) In subsection (4) for "section 76A" to "Disability Discrimination Act 1995" substitute "section 149 of the Equality Act 2010".

(4) In subsection (9)(a) for "section 76A" to "Disability Discrimination Act 1995 (c. 50)" substitute "section 149 of the Equality Act 2010".

(5) In subsection (9)(b) for "in any other case" substitute "where the notice related to a duty by virtue of section 153 or 154 of that Act".

(6) In subsection (11) for "section 76B" to "Disability Discrimination Act 1995" substitute "section 153 or 154 of the Equality Act 2010".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 74(1)-(6): England, Wales, Scotland

Law In Force

[75

Omit section 33 (equality and human rights enactments).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 75: England, Wales, Scotland

Law In Force

[76

(1) Section 34 (meaning of unlawful) is amended as follows.

(2) In subsection (1) for "equality enactments" substitute "Equality Act 2010".

(3) In subsection (2)—

(a) after "virtue of" insert "any of the following provisions of the Equality Act 2010", and

(b) for paragraphs (a) to (c) substitute—

"(a) section 1 (public sector duty regarding socio-economic inequalities),

(b) section 149, 153 or 154 (public sector equality duty),

(c) Part 12 (disabled persons: transport), or

(d) section 190 (disability: improvements to let dwelling houses)."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 76(1)-(3)(b): England, Wales, Scotland

Law In Force

[77

(1) Section 35 (general: definitions) is amended as follows.

(2) In the definition of "religion or belief", for "Part 2 (as defined by section 44)" substitute "section 10 of the Equality Act 2010".

(3) For the definition of "sexual orientation" substitute—

> ""sexual orientation" has the same meaning as in section 12 of the Equality Act 2010."

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 77(1)-(3): England, Wales, Scotland

Law In Force

[78

In section 39(4) (orders subject to affirmative resolution procedure) for ", 27(10) or 33(3)" substitute "or 27(10)".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 78: England, Wales, Scotland

Law In Force

[79

Omit section 43 (transitional: rented housing in Scotland).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 79: England, Wales, Scotland

Law In Force

[80

Omit Part 2 (discrimination on grounds of religion or belief).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 80: England, Wales, Scotland

Law In Force

[81

Omit section 81 (regulations).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 81: England, Wales, Scotland

Law In Force

[82

Omit Part 4 (public functions).

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 82: England, Wales, Scotland

Law In Force

[83

In section 94(3) (extent: Northern Ireland)—

(a) omit "and 41 to 56", and

(b) omit "and the Disability Discrimination Act 1995 (c. 50)".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 83(a)-(b): England, Wales, Scotland

Law In Force

[84

(1) Schedule 1 (the Commission: constitution, etc.) is amended as follows.

(2) In paragraph 52(3)(a) for "Parts 1, 3, 4, 5 and 5B of the Disability Discrimination Act 1995 (c. 50)" substitute "Parts 2, 3, 4, 6, 7, 12 and 13 of the Equality Act 2010, in so far as they relate to disability".

(3) In paragraph 53 for "Part 2 of the Disability Discrimination Act 1995 (c. 50)" substitute "Part 5 of the Equality Act 2010".

(4) In paragraph 54 for "Part 2 of the Disability Discrimination Act 1995" substitute "Part 5 of the Equality Act 2010".

] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 84(1)-(4): England, Wales, Scotland

Law In Force

[85
In Schedule 3 (consequential amendments), omit paragraphs 6 to 35 and 41 to 56.
] [1]

Notes

[1] Sch.26 paras 6-30 are renumbered as Sch.26 paras 61-85 by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.1(c) (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 85: England, Wales, Scotland

[Immigration, Asylum and Nationality Act 2006] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[86.
In section 23(1)(a) of the Immigration Asylum and Nationality Act 2006 (discrimination: code of practice) for “the Race Relations Act 1976 (c. 74)” substitute “the Equality Act 2010, so far as relating to race”.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 86: England, Wales, Scotland

[Childcare Act 2006] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[87.
The Childcare Act 2006 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 87: England, Wales, Scotland

Law In Force

[88.
In section 6(6) (duty to secure sufficient childcare for working parents) in the definition of "disabled child" for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 88: England, Wales, Scotland

Law In Force

[89.
In section 12(8) (duty to provide information, advice and assistance) for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 89: England, Wales, Scotland

Law In Force

[90.

In section 22(6) (duty to secure sufficient childcare for working parents (Wales)) in the definition of "disabled child" for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 90: England, Wales, Scotland

Law In Force

[91.

In section 27(8) (duty to provide information, advice and assistance (Wales)) for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 91: England, Wales, Scotland

[Education and Inspections Act 2006] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[92.
The Education and Inspections Act 2006 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 92: England, Wales, Scotland

Law In Force

[93.
In section 21(5) (proposals under section 19: procedure) for "section 27 of the Sex Discrimination Act 1975 (c. 65) (exception for single-sex establishments turning coeducational)" substitute "paragraphs 3 and 4 of Schedule 11 to the Equality Act 2010 (single-sex schools turning co-educational)".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 93: England, Wales, Scotland

Law In Force

[94.
In section 91(7) (enforcement of disciplinary penalties) for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 94: England, Wales, Scotland

[Finance Act 2007] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[95.

In paragraph 7(7) of Schedule 18 to the Finance Act 2007 (pension schemes: abolition of relief for life insurance premium contributions etc)—

(a) for "Employment Equality (Age) Regulations 2006 (SI 2006/1031)" substitute "Equality Act 2010, so far as relating to age,", and

(b) for "them" substitute "those Regulations".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 95(a)-(b): England, Wales, Scotland

[UK Borders Act 2007] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[96.
In section 48(2)(f) of the UK Borders Act 2007[2] (recommendations by Chief Inspector of UK Border Agency) for "section 19D of the Race Relations Act 1976 (c.74)" substitute "paragraph 17 of Schedule 3 to the Equality Act 2010".
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

2 2007 c. 30; section 48 was amended by the Borders, Citizenship and Immigration Act 2009 (c. 11), section 28.

Extent

Sch. 26(1) para. 96: England, Wales, Scotland

[Regulatory Enforcement and Sanctions Act 2008] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[97.
The Regulatory Enforcement and Sanctions Act 2008 is amended as follows.
] [1]

Notes

1 Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 97: England, Wales, Scotland

Law In Force

[98.
Insert after section 38(2) (meaning of "relevant offence")—

"(3) The entry in Schedule 6 for Part 5 of the Disability Discrimination Act 1995 is, in relation to England and Wales and Scotland, to be read as a reference to Part 12 of the Equality Act 2010."

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 98: England, Wales, Scotland

Law In Force

[99.

In Schedule 3 (enactments specified for the purposes of the Part relating to LBRO) omit "Disability Discrimination Act 1995 (c. 50)".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 99: England, Wales, Scotland

[Apprenticeships, Skills, Children and Learning Act 2009] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[100.

In section 218(3)(b) of the Apprenticeships, Skills, Children and Learning Act 2009 (arrangements etc to be made by Commission) for "section 1(1) of the Disability Discrimination Act 1995 (c.50)" substitute "section 6 of the Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(1) para. 100: England, Wales, Scotland

[PART 2

Acts of the Scottish Parliament

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

[Education (Disability Strategies and Pupils' Educational Records)(Scotland) Act 2002] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[101.
In section 6 of the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 (interpretation) in the definition of “pupil with a disability” for “Disability Discrimination Act 1995 (c.50)” substitute “Equality Act 2010”.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 101: England, Wales, Scotland

[Freedom of Information (Scotland) Act 2002] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[102.
The Freedom of Information (Scotland) Act 2002 is amended as follows.
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 102: England, Wales, Scotland

Law In Force

[103.
In section 11(5) (means of providing information) for "provider of services has under or by virtue of section 21 of the Disability Discrimination Act 1995 (c. 50)" substitute "person has under or by virtue of section 29 of the Equality Act 2010 (provision of services etc)".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 103: England, Wales, Scotland

Law In Force

[104.
In section 12(6) (excessive cost of compliance) for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 104: England, Wales, Scotland

[Dog Fouling (Scotland) Act 2003] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[105.
In section 16 of the Dog Fouling (Scotland) Act 2003 (interpretation) in the definition of "disabled person" for "section 1 of the Disability Discrimination Act 1995 (c.50)" substitute "section 6 of the Equality Act 2010".
] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 105: England, Wales, Scotland

[Education (Additional Support for Learning) (Scotland) Act 2004] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[106.

Paragraph 3(1)(e) of schedule 2 to the Education (Additional Support for Learning) (Scotland) Act 2004 (exclusion to duty to comply with placing requests) is amended as follows—

(a) for "section 26 of the Sex Discrimination Act 1975 (c.65))" substitute "paragraph 1(2) of Part 1 of Schedule 11 to the Equality Act 2010", and

(b) for "section", where it occurs for the second time, substitute,"paragraph".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 106(a)-(b): England, Wales, Scotland

[Housing (Scotland) Act 2006] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 art.3(2) (April 4, 2011)

Law In Force

[106A.

In section 194(1) of the Housing (Scotland) Act 2006 (interpretation), in the definition of "disabled person", for "Disability Discrimination Act 1995 (c. 50)"[2] substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 art.3(2) (April 4, 2011)

[2] The Disability Discrimination Act 1995 was repealed by Part 1 of Schedule 27 to the Act, as amended by Schedule 2 to S.I. 2010/2279. The repeal of the Disability Discrimination Act 1995 came into force by virtue of S.I. 2010/2317 (C. 112) except in respect of sections 49A to 49D.

Extent

Sch. 26(2) para. 106A: England, Wales, Scotland

[Education (Additional Support for Learning) (Scotland) Act 2009] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Law In Force

[107.

In section 9 of the Education (Additional Support for Learning) (Scotland) Act 2009 (functions of education authority in relation to certain pre-school children etc), in the amendment to section 5(3)(c) of the Education (Additional Support for Learning) (Scotland) Act 2004, for "Disability Discrimination Act 1995 (c.50)" substitute "Equality Act 2010".

] [1]

Notes

[1] Added by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.1 para.6 (October 1, 2010: for full commencement information regarding 2010 c.15 Sch.26 see SI 2010/2317 art.2(15)(e))

Extent

Sch. 26(2) para. 107: England, Wales, Scotland

SCHEDULE 27

REPEALS AND REVOCATIONS

Section 211

PART 1

REPEALS

Partially In Force

[

Short title	*Extent of Repeal*
The Sex Disqualification Removal Act 1919	The whole Act.
Equal Pay Act 1970	The whole Act.
Sex Discrimination Act 1975	The whole Act.
Race Relations Act 1976	The whole Act.
Estate Agents Act 1979	In section 5(3)"those Acts and".
Further Education Act 1985	Section 4.
Sex Discrimination Act 1986	The whole Act.
Local Government Act 1988[2]	Section 17(9).
	Section 18.
	Section 19(10).
Employment Act 1989[3]	Sections 1 to 7.
	Section 9.
	Section 28(2), (3) and (4)(a).
	In section 29(1) the definition of "the 1975 Act".
Local Government and Housing Act 1989	Section 7(2)(c),(d) and (f).
Social Security Act 1989[4]	In Schedule 5—
	(a) in paragraph 2(4) from "; but where" to the end, and
	(b) paragraph 5.
Enterprise and New Towns (Scotland) Act 1990	Section 18.
Contracts (Applicable Law) Act 1990	In Schedule 4 in paragraph 1"Section 1(11) of the Equal Pay Act 1970 and" and the cross-heading referring to the Equal Pay Act 1970.
Further and Higher Education Act 1992[5]	In Schedule 8, paragraphs 75 to 88.
Trade Union and Labour Relations (Consolidation) Act 1992	In Schedule A2 the entries for—
	(c) the Equal Pay Act 1970;
	(d) the Sex Discrimination Act 1975;
	(e) the Race Relations Act 1976;
	(f) the Disability Discrimination Act 1995;
	(g) the Employment Equality (Sexual Orientation) Regulations 2003[6] ;
	(h) the Employment Equality (Religion or Belief) Regulations 2003[7] ;
	(i) the Employment Equality (Age) Regulations 2006[8] .
	In Schedule 2, paragraph 3(1) to (3) and the preceding cross-heading.

Short title	***Extent of Repeal***
Trade Union Reform and Employment Rights Act 1993	In section 39(2)"the Sex Discrimination Act 1975, the Race Relations Act 1976, and".
	In Schedule 6, paragraphs 1 and 2.
	In Schedule 7, paragraph 8.
Race Relations (Remedies) Act 1994	The whole Act.
Disability Discrimination Act 1995	The whole Act.
Pensions Act 1995[9]	Sections 62 to 66.
Employment Tribunals Act 1996	Section 18(1)(c), (k), (l) and (r).
	Section 21(1)(a), (b), (c), (e), (l), (m) and (s).
	In Schedule 2, paragraph 7.
Employment Rights Act 1996	In Schedule 1, paragraph 1 and the preceding cross-heading.
Armed Forces Act 1996[10]	Sections 21, 23 and 24.
Education Act 1996	In Schedule 36A, in the table, the entries for the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995.
	In Schedule 37, paragraphs 31, 32, 34 to 36, 37(b), 39, 40 and 43.
Employment Rights (Dispute Resolution) Act 1998	Section 8(1), (2) and (4).
	Section 9(2)(a), (b) and (d).
	Section 10(2)(a), (b) and (d).
	In Schedule 1, paragraphs 2, 3 and 11.
School Standards and Framework Act 1998	In Schedule 30, paragraphs 5, 6 and 7.
Greater London Authority Act 1999[11]	Section 404.
Learning and Skills Act 2000	Section 150(4)(d) and the "or" immediately preceding it.
	In Schedule 9, paragraphs 5, 6, 7 and 9 and the preceding cross-heading.
Race Relations (Amendment) Act 2000	Section 1.
	Sections 3 to 10.
	Schedule 2, except for paragraphs 17 and 31.
	Schedule 3.
Standards In Scotland's Schools etc. Act 2000	In schedule 2, paragraph 2.
Special Educational Needs and Disability Act 2001	Sections 11 to 33.
	Section 34(4), (5), (6) and (7).
	Sections 38 to 40.
	Schedules 2 to 6.
Sex Discrimination (Election Candidates) Act 2002	Section 1.
Employment Act 2002[12]	Section 42 and the preceding cross-heading.
	In Schedule 5, the entries for—
	(j) the Equal Pay Act 1970;
	(k) the Sex Discrimination Act 1975;
	(l) the Race Relations Act 1976;

Short title	***Extent of Repeal***
	(m) the Disability Discrimination Act 1995;
	(n) the Employment Equality (Sexual Orientation) Regulations 2003[6] ;
	(o) the Employment Equality (Religion or Belief) Regulations 2003[7] ;
	(p) the Employment Equality (Age) Regulations 2006[8] .
Education Act 2002	In Schedule 7, paragraph 5 and the preceding cross-heading.
	In Schedule 18, paragraphs 7 to 12.
	In Schedule 21, paragraphs 3 and 26 to 29 and the cross-headings preceding paragraphs 3 and 26.
Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2002	Sections 1 and 3 to 5.
Nationality, Immigration and Asylum Act 2002	In Schedule 7, paragraphs 11, 12 and 14 and the preceding cross-heading.
Gender Recognition Act 2004	Section 19.
	In Schedule 6, Part 1.
Civil Partnership Act 2004	Section 6(1)(b) and (2).
Higher Education Act 2004	Section 19.
Education (Additional Support for Learning) (Scotland) Act 2004	In section 17(1)“to exercise the functions which are conferred on a Tribunal by virtue of this Act”.
Disability Discrimination Act 2005	The whole Act except for—
	(q) section 3
	(r) section 9
	(s) Schedule 1paragraphs 31, 33, 34(1) and (6) and Part 2
Serious Organised Crime and Police Act 2005[13]	Section 56(2)(a) and (b) and (4)(a), (b), (g) and (h) and the “and” preceding each of paragraphs (g) and (h).
Education Act 2005	In Schedule 9, paragraph 8 and the preceding cross-heading.
	In Schedule 14, paragraphs 5 and 7.
	In Schedule 15, paragraph 6.
Charities and Trustee Investment (Scotland) Act 2005	In schedule 4, paragraph 3.
Equality Act 2006	Section 25[14] .
	Section 26.
	Section 33[15] .
	Section 43.
	Part 2.
	Section 81[16]
	Part 4.
	In Section 94(3)“and 41 to 56” and “and the Disability Discrimination Act 1995(c.50)”.
	In Schedule 3, paragraphs 6 to 35 and paragraphs 40 to 56.

Short title	***Extent of Repeal***
Education and Inspections Act 2006	In Schedule 1, paragraph 1 and the preceding cross-heading.
	In Schedule 3, paragraph 3 and the preceding cross-heading.
Legal Services Act 2007	In Schedule 21, paragraphs 32, 36 to 38 and 118 and the cross-headings preceding paragraphs 32 and 118.
Greater London Authority Act 2007	Section 11(5).
Regulatory Enforcement and Sanctions Act 2008	In Schedule 3, "Disability Discrimination Act 1995 (c.50)".
	In Schedule 6, "Disability Discrimination Act 1995 (c.50)".
Education and Skills Act 2008	In Schedule 1, paragraphs 1 to 4 and the crossheading preceding paragraph 1.
Local Transport Act 2008	Section 55.
	Section 56.
Apprenticeships, Skills, Children and Learning Act 2009	Section 221(3).

] [1]

Notes

1 Substituted by Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010/2279 Sch.2 para.1 (October 1, 2010)

2 1988 c. 9; sections 18(1) and (2) were amended by the Race Relations (Amendment) Act 2000 (c. 34), section 9(1), Schedule 2, paragraphs 20(a) and (b) and 21(a) and (b) respectively.

3 1989 c. 38; section 1(3) was amended by S.I. 2001/2660, regulation 9(a). In section 5(6)paragraph (ba) was inserted, and paragraph (c) was substituted, by the Further and Higher Education Act 1992 (c. 13), section 93, Schedule 8, Part II, paragraph 93.

4 1989 c. 24; paragraph 5(2) of Schedule 5 was amended by the Social Security Act 1990 (c. 27), section 21(1), Schedule 6, paragraph 29.

5 1992 c. 13; paragraphs 79 and 88 of Schedule 8 were amended by the Education Act 1996 (c. 56), section 582(1), Schedule 37, paragraph 117(4).

6 S.I. 2003/1661; there are amendments to these Regulations which are not relevant to this Order.

7 S.I. 2003/1660; there are amendments to these Regulations which are not relevant to this Order.

8 S.I. 2006/1031; regulation 36 of these Regulations was amended by S.I. 2006/2408. There are other amendments to these regulations that are not relevant to this Order.

9 1995 c. 26; section 63(2) was amended by S.I. 2005/2053, article 2, Schedule, Part 4, paragraph 22.

10 1996 c. 46; sections 21, 23 and 24 were amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(b).

11 1999 c. 29; section 404(1) was amended by the Greater London Authority Act 2007 (c. 24), sections 11(1), (5)(a), (5)(b) and (5)(c), 57 and Schedule 2.

12 2002 c. 22; Schedule.5 was amended by S.I. 2003/1673, regulations 3(2) and 31(3); SI 2003/1661, regulation 39 and Schedule 5, paragraph 4(c); S.I. 2003/1660, regulation 39(2), Schedule 5, paragraph 4(c).

13 2005 c. 15; section 56(4)(h) was amended by SI 2007/1263, regulation 31(5).

14 Section 25 was amended by S.I. 2006/1721, regulations 4(1), 22 and by S.I. 2007/1263, regulation 32.

15 Section 33 was amended by S.I. 2006/1031, regulation 49(1), Schedule 8, Part 1, paragraphs 37, 40(1), (2), (3) and by S.I. 2007/2914, article 8, Schedule, paragraph 16(i).

16 Section 81 was amended by S.I. 2007/2914, article 1(2) and article 8, Schedule, paragraph 16(n).

Commencement

Sch. 27(1) para. 1(a)-(b): October 1, 2010 immediately after the commencement of SI 2010/2279, subject to savings, transitional and transitory provisions specified in SI 2010/2317 arts.5-22 and Schs 1-7; April 5, 2011 except for repeals specified in SI 2011/1066 art.2(h); not yet in force otherwise (SI 2010/2317 art. 2(15)(f))

Extent

Sch. 27(1) para. 1(a)-(b): England, Wales, Scotland

[PART 1A

REPEALS RELATING TO THE COMMENCEMENT OF THE PUBLIC SECTOR EQUALITY DUTY ON 5TH APRIL 2011

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.3 para.1 (April 4, 2011)

Law In Force

[

Short title	*Extent of repeal*
Race Relations (Amendment) Act 2000	Section 2.
	Schedule 1.
	In Schedule 2, paragraph 17.
Nationality, Immigration and Asylum Act 2002	Section 6(5).
Water Act 2003	In Schedule 7, paragraph 22.
Courts Act 2003	In Schedule 8, paragraph 187.
Health and Social Care (Community Health and Standards) Act 2003	In Schedule 4, paragraphs 21 and 22.
Health Protection Agency Act 2004	In Schedule 3, paragraph 8.
Energy Act 2004	In Schedule 14, paragraph 4.
Fire and Rescue Services Act 2004	In Schedule 1, paragraph 48.
Civil Contingencies Act 2004	In Schedule 2, paragraph 10(3)(a).
Disability Discrimination Act 2005	Section 3.
Serious Organised Crime and Police Act 2005	In Schedule 4, paragraphs 33 to 35.
Education Act 2005	In Schedule 14, paragraphs 6 and 8.
Gambling Act 2005	In Schedule 16, paragraph 9.
London Olympic Games and Paralympic Games Act 2006	In Schedule 1, paragraph 21.
Natural Environment and Rural Communities Act 2006	In Schedule 11—
	(a) paragraph 61, and

Short title	***Extent of repeal***
	(b) in paragraph 175(2), "in the Race Relations Act 1976 (c. 74), Part 2 of Schedule 1A;".
National Health Service (Consequential Provisions) Act 2006	In Schedule 1, paragraphs 55 and 56.
Police and Justice Act 2006	In Schedule 1, paragraph 60.
Tourist Boards (Scotland) Act 2006	In Schedule 2, paragraph 3.
Tribunals, Courts and Enforcement Act 2007	In Schedule 8, paragraph 7.
Offender Management Act 2007	In Schedule 3, paragraphs 1 and 7.
Legal Services Act 2007	In Schedule 21, paragraph 39.
Health and Social Care Act 2008	In Schedule 5, paragraph 59.
	In Schedule 10, paragraph 6.
Housing and Regeneration Act 2008	In Schedule 8, paragraph 21.
	In Schedule 9, paragraph 4.
Local Transport Act 2008	In Schedule 4, paragraph 49.
Climate Change Act 2008	In Schedule 1, paragraph 32.
Pensions Act 2008	In Schedule 1, paragraph 25.
Local Democracy, Economic Development and Construction Act 2009	In Schedule 6, paragraph 44.
Apprenticeships, Skills, Children and Learning Act 2009	In Schedule 6, paragraph 1.
	In Schedule 12, paragraph 7.
Marine and Coastal Access Act 2009	In Schedule 2, paragraph 4.
Policing and Crime Act 2009	Section 2(3).

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.3 para.1 (April 4, 2011)

Extent

Sch. 27(1A) para. 1: England, Wales, Scotland

PART 2

REVOCATIONS

Law In Force

Title	***Extent of revocation***
Occupational Pension Schemes (Equal Treatment) Regulations 1995 (S.I. 1995/3183)	The whole Regulations.

Title	*Extent of revocation*
Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660)	The whole Regulations.
Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661)	The whole Regulations.
Disability Discrimination Act 1995 (Pensions) Regulations 2003 (S.I. 2003/2770)	The whole Regulations.
Occupational Pension Schemes (Equal Treatment) (Amendment) Regulations 2005 (S.I. 2005/1923)	The whole Regulations.
Employment Equality (Age) Regulations 2006 (S.I. 2006/ 1031)	The whole Regulations (other than Schedules 6 and 8).
Equality Act (Sexual Orientation) Regulations 2007 (S.I. 2007/1263)	The whole Regulations.
Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/ 963)	The whole Regulations.

Commencement

Sch. 27(2) para. 1: October 1, 2010 (SI 2010/2317 art. 2(15)(f))

Extent

Sch. 27(2) para. 1: England, Wales, Scotland

[PART 3

REVOCATIONS RELATING TO THE COMMENCEMENT OF THE PUBLIC SECTOR EQUALITY DUTY ON 5TH APRIL 2011

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.4 para.1 (April 4, 2011)

Law In Force

[

Title	*Extent of revocation*
National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469)	In Schedule 1, paragraph 9.
Health Professions Order 2001 (Consequential Amendments) Order 2003 (S.I. 2003/1590)	In the Schedule, paragraph 4.
Further and Higher Education (Scotland) Act 2005 (Consequential Modifications) Order 2005 (S.I. 2005/2077)	Article 5.

Title	*Extent of revocation*
Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172)	In the Schedule, paragraph 2.
References to Health Authorities Order 2007 (S.I. 2007/961)	In the Schedule, paragraph 12.
Tourist Boards (Scotland) Act 2006 (Consequential Modifications) Order 2007 (S.I. 2007/1103)	In the Schedule, paragraph 3.
Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388)	In Schedule 1, paragraphs 10 to 16.
Agriculture and Horticulture Development Board Order 2008 (S.I. 2008/576)	In Schedule 5, paragraph 4.
Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080)	In Schedule 1, paragraphs 9 to 11.
Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158)	In Schedule 2, in Part 2, paragraph 30.

] [1]

Notes

[1] Added by Equality Act 2010 (Public Authorities and Consequential and Supplementary Amendments) Order 2011/1060 Sch.4 para.1 (April 4, 2011)

Extent

Sch. 27(3) para. 1: England, Wales, Scotland

SCHEDULE 28

INDEX OF DEFINED EXPRESSIONS

Section 214

Law In Force

Expression	*Provision*
Accrual of rights, in relation to an occupational pension scheme	Section 212(12)
Additional maternity leave	Section 213(6) and (7)
Additional maternity leave period	Section 213(8)
Age discrimination	Section 25(1)
Age group	Section 5(2)
Armed forces	Section 212(1)
Association	Section 107(2)
Auxiliary aid	Section 20(11)
Belief	Section 10(2)
Breach of an equality clause or rule	Section 212(8)

Expression	***Provision***
The Commission	Section 212(1)
Commonhold	Section 38(7)
Compulsory maternity leave	Section 213(3)
Contract work	Section 41(6)
Contract worker	Section 41(7)
Contravention of this Act	Section 212(9)
Crown employment	Section 83(9)
Detriment	Section 212(1) and (5)
Disability	Section 6(1)
Disability discrimination	Section 25(2)
Disabled person	Section 6(2) and (4)
Discrimination	Sections 13 to 19, 21 and 108
Disposal, in relation to premises	Section 38(3) to (5)
Education Acts	Section 212(1)
Employer, in relation to an occupational pension scheme	Section 212(11)
Employment	Section 212(1)
Enactment	Section 212(1)
Equality clause	Section 212(1)
Equality rule	Section 212(1)
Firm	Section 46(2)
Gender reassignment	Section 7(1)
Gender reassignment discrimination	Section 25(3)
Harassment	Section 26(1)
Independent educational institution	Section 89(7)
LLP	Section 46(4)
Man	Section 212(1)
Marriage and civil partnership	Section 8
Marriage and civil partnership discrimination	Section 25(4)
Maternity equality clause	Section 212(1)
Maternity equality rule	Section 212(1)
Maternity leave	Section 213(2)
Member, in relation to an occupational pension scheme	Section 212(10)
Member of the executive	Section 212(7)
Non-discrimination rule	Section 212(1)
Occupation, in relation to premises	Section 212(6)
Occupational pension scheme	Section 212(1)
Offshore work	Section 82(3)
Ordinary maternity leave	Section 213(4) and (5)
Parent	Section 212(1)
Pension credit member	Section 212(11)
Pensionable service	Section 212(11)

Expression	***Provision***
Pensioner member	Section 212(11)
Personal office	Section 49(2)
Physical feature	Section 20(10)
Pregnancy and maternity discrimination	Section 25(5)
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Prescribed	Section 212(1)
Profession	Section 212(1)
Proposed firm	Section 46(3)
Proposed LLP	Section 46(5)
Proprietor, in relation to a school	Section 89(4)
Protected characteristics	Section 4
Protected period, in relation to pregnancy	Section 18(6)
Provision of a service	Sections 31 and 212(4)
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Reasonable adjustments, duty to make	Section 20
Relevant member of the House of Commons staff	Section 83(5)
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Relevant person, in relation to a personal or public office	Section 52(6)
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Requirement, the first, second or third	Section 20
Responsible body, in relation to a further or higher education institution	Section 91(12)
Responsible body, in relation to a school	Section 85(9)
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Sex discrimination	Section 25(8)
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Sex equality rule	Section 212(1)
Sexual orientation	Section 12(1)
Sexual orientation discrimination	Section 25(9)
Student	Section 94(3)
Subordinate legislation	Section 212(1)
Substantial	Section 212(1)
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Taxi, for the purposes of Chapter 1 of Part 12 (disabled persons: transport)	Section 173(1)
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Expression	***Provision***
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Transsexual person	Section 7(2)
Trustees or managers, in relation to an occupational pension scheme	Section 212(11)
University	Section 94(4)
Victimisation	Section 27(1)
Vocational training	Section 56(6)
Woman	Section 212(1)

Commencement

Sch. 28 para. 1: April 15, 2010 (2010 c. 15 Pt 16 s. 216(1)(b))

Extent

Sch. 28 para. 1: England, Wales, Scotland

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Equality Act 2010 which received Royal Assent on 8 April 2010. They have been prepared by the Government Equalities Office, the Department for Work and Pensions (in respect of provisions relating to disability and pensions), the Department for Children, Schools and Families and the Department for Business, Innovation and Skills (in respect of provisions relating to education), the Department for Transport (in respect of provisions relating to disability and transport) and the Department for Business, Innovation and Skills (in respect of provisions relating to work exceptions). Their purpose is to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

Background and summary

Background

3. Domestic discrimination law has developed over more than 40 years since the first Race Relations Act in 1965. Subsequently, other personal characteristics besides race have been protected from discrimination and similar conduct, sometimes as a result of domestic initiatives and sometimes through implementing European Directives.

4. The domestic law is now mainly contained in the following legislation (where applicable, as amended):

- the Equal Pay Act 1970;
- the Sex Discrimination Act 1975;
- the Race Relations Act 1976;
- the Disability Discrimination Act 1995;
- the Employment Equality (Religion or Belief) Regulations 2003;
- the Employment Equality (Sexual Orientation) Regulations 2003;
- the Employment Equality (Age) Regulations 2006;
- the Equality Act 2006, Part 2;
- the Equality Act (Sexual Orientation) Regulations 2007.

5. The main European Directives affecting domestic discrimination legislation are:

- Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation;
- Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- European Parliament and Council Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Also relevant in this context is Article 157 of the Treaty on the Functioning of the European Union.

6. In addition, in July 2008 the European Commission published a new draft Directive which would prohibit discrimination because of disability, religion or belief, sexual orientation and age, in access to goods and services, housing, education, social protection, social security and social advantage. This Directive is under negotiation.

7. In February 2005, the Government set up the Discrimination Law Review to address long-term concerns about inconsistencies in the current discrimination law framework. The Review was tasked with considering the fundamental principles of discrimination legislation and its underlying concepts, and the opportunities for creating a clearer and more streamlined framework of equality legislation which produces better outcomes for those who experience disadvantage.

8. In June 2007 the Department for Communities and Local Government published a consultation paper, A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain. This was followed in June and July 2008 by two Command Papers published by the Government Equalities Office: Framework for a Fairer Future — the Equality Bill (Cm 7431); and The Equality Bill — Government Response to the Consultation (Cm 7454). In January 2009, the Government published the New Opportunities White Paper (Cm 7533) which, amongst other things, committed the Government to considering legislation to address disadvantage associated with socio-economic inequality.

9. The following further documents were published by the Government Equalities Office during the passage of the Bill that became the Equality Act: in April 2009, Equality Bill: Assessing the impact of a multiple discrimination provision (a summary of responses was published in October 2009); in June 2009, Equality Bill: Making it work – Policy proposals for specific duties; and in January 2010 Equality Bill: Making it work – Ending age discrimination in services and public functions.

Summary

10. The Act has two main purposes — to harmonise discrimination law, and to strengthen the law to support progress on equality.

11. The Act brings together and re-states all the enactments listed in paragraph 4 above and a number of other related provisions. It will harmonise existing provisions to give a single approach where appropriate. Most of the existing legislation will be repealed. The Equality Act 2006 will remain in force (as amended by the Act) so far as it relates to the constitution and operation of the Equality and Human Rights Commission; as will the Disability Discrimination Act 1995, so far as it relates to Northern Ireland.

12. The Act also strengthens the law in a number of areas. It:

- places a new duty on certain public bodies to consider socio-economic disadvantage when making strategic decisions about how to exercise their functions;
- extends the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic;
- extends the circumstances in which a person is protected against discrimination by allowing people to make a claim if they are directly discriminated against because of a combination of two relevant protected characteristics;
- creates a duty on listed public bodies when carrying out their functions and on other persons when carrying out public functions to have due regard when carrying out their functions to: the need to eliminate conduct which the Act prohibits; the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and the need to foster good relations between people who share a relevant protected characteristic and people who do not. The practical effect is that listed public bodies will have to consider how their policies, programmes and service delivery will affect people with the protected characteristics;
- allows an employer or service provider or other organisation to take positive action so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic;
- extends the permission for political parties to use women-only shortlists for election candidates to 2030;
- enables an employment tribunal to make a recommendation to a respondent who has lost a discrimination claim to take certain steps to remedy matters not just for the benefit of the individual claimant (who may have already left the organisation concerned) but also the wider workforce;
- amends family property law to remove discriminatory provisions and provides additional statutory property rights for civil partners in England and Wales;
- amends the Civil Partnership Act 2004 to remove the prohibition on civil partnerships being registered in religious premises.

Overview of the structure of the Act

13. The Act consists of 16 Parts and 28 Schedules. The general arrangement of the Act is as follows:

PART	SUMMARY
Part 1	Imposes a duty on certain public bodies to have due regard to socio-economic considerations in making strategic decisions.

PART	SUMMARY
Part 2 including Schedule 1	Establishes the key concepts on which the Act is based including: • the characteristics which are protected (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation); • the definitions of direct discrimination (including because of a combination of two relevant protected characteristics), discrimination arising from disability, indirect discrimination, harassment and victimisation. These key concept are then applied in the subsequent Parts of the Act
Part 3 including Schedules 2 and 3	Makes it unlawful to discriminate against, harass or victimise a person when providing a service (which includes the provision of goods or facilities) or when exercising a public function.
Part 4 including Schedules 4 and 5	Makes it unlawful to discriminate against, harass or victimise a person when disposing of (for example, by selling or letting) or managing premises.
Part 5 including Schedules 6, 7, 8 and 9	Makes it unlawful to discriminate against, harass or victimise a person at work or in employment services. Also contains provisions relating to equal pay between men and women; pregnancy and maternity pay; provisions making it unlawful for an employment contract to prevent an employee disclosing his or her pay; and a power to require private sector employers to publish gender pay gap (the size of the difference between men and women's pay expressed as a percentage) information about differences in pay between men and women. It also contains provisions restricting the circumstances in which potential employees can be asked questions about disability or health.
Part 6 including Schedules 10, 11, 12, 13 and 14	Makes it unlawful for education bodies to discriminate against, harass or victimise a school pupil or student or applicant for a place.
Part 7 including Schedules 15 and 16	Makes it unlawful for associations (for example, private clubs and political organisations) to discriminate against, harass or victimise members, associates or guests and contains a power to require political parties to publish information about the diversity of their candidates.
Part 8	Prohibits other forms of conduct, including discriminating against or harassing of an ex-employee or ex-pupil, for example: instructing a third party to discriminate against another; or helping someone discriminate against another. Also determines the liability of employers and principals in relation to the conduct of their employees or agents.
Part 9 including Schedule 17	Deals with enforcement of the Act's provisions, through the civil courts (in relation to services and public functions; premises; education; and associations) and the employment tribunals (in relation to work and related areas, and equal pay).
Part 10	Makes terms in contracts, collective agreements or rules of undertakings unenforceable or void if they result in unlawful discrimination, harassment or victimisation.
Part 11 including Schedules 18 and 19	Establishes a general duty on public authorities to have due regard, when carrying out their functions, to the need: to eliminate unlawful discrimination, harassment or victimisation; to advance equality of opportunity; and to foster good relations. Also contains provisions which enable an employer or service provider or other organisation to take positive action to overcome or minimise a disadvantage arising from people possessing particular protected characteristics.
Part 12 including Schedule 20	Requires taxis, other private hire vehicles, public service vehicles (such as buses) and rail vehicles to be accessible to disabled people and to allow them to travel in reasonable comfort.
Part 13 including Schedule 21	Deals with consent to make reasonable adjustments to premises and improvements to let dwelling houses.
Part 14 including Schedules 22 and 23	Establishes exceptions to the prohibitions in the earlier parts of the Act in relation to a range of conduct, including action required by an enactment; protection of women; educational appointments; national security; the provision of benefits by charities and sporting competitions.

PART	SUMMARY
Part 15	Repeals or replaces rules of family property law which discriminated between husbands and wives.
Part 16 including Schedules 24, 25, 26, 27 and 28	Contains a power for a Minister of the Crown to harmonise certain provisions in the Act with changes required to comply with EU obligations. It contains general provisions on application to the Crown, subordinate legislation, interpretation, commencement and extent. It also contains amendments to the Civil Partnership Act 2004 to allow civil partnership registrations to take place on religious premises that are approved for that purpose.

Territorial extent and application

General

14. The Act forms part of the law of England and Wales. It also, with the exception of section 190 and Part 15, forms part of the law of Scotland. There are also a few provisions which form part of the law of Northern Ireland.

15. As far as territorial application is concerned, in relation to Part 5 (work) and following the precedent of the Employment Rights Act 1996, the Act leaves it to tribunals to determine whether the law applies, depending for example on the connection between the employment relationship and Great Britain. However, the Act contains a power to specify territorial application of Part 5 in relation to ships and hovercraft (section 81) and offshore work (section 82). In relation to the non-work provisions, the Act is again generally silent on territorial application, leaving it to the courts to determine whether the law applies. However, in a limited number of specific cases, express provision is made for particular provisions of the Act to apply (or potentially apply) outside the United Kingdom. Thus, section 29(9) provides for the prohibitions in respect of the provision of services or the exercise of public functions to apply in relation to race and religion or belief to the granting of entry clearance, even where the act in question takes place outside the United Kingdom. Also, section 30 contains a similar power to that in Part 5 to specify the territorial application of the services provisions of Part 3 in relation to ships and hovercraft.

Scotland

16. The Act contains provisions that triggered the Sewel Convention in relation to Scotland. The Scottish Ministers can already impose specific equality duties on Scottish public bodies and on the devolved functions of cross-border bodies following appropriate consultation. Provisions in this Act replicate this situation. The Scottish Ministers will be able to impose specific duties on relevant Scottish bodies (sections 153 and 154) and by order to amend Part 3 of Schedule 19 which lists the relevant Scottish bodies to which the general public sector equality duty applies (section 151). A procedure will be specified in relation to imposition of specific duties on cross-border Scottish bodies added to Schedule 19 by a Minister of the Crown when a cross-border body is added to Part 4 of that Schedule. The procedure enables the Scottish Ministers to impose specific duties in relation to the devolved Scottish functions of the cross-border bodies. The Act also contains a number of provisions which confer additional powers on the Scottish Ministers to make secondary legislation, for example: a power for the Scottish Ministers to add a relevant Scottish body to the bodies subject to the duty in section 1 to consider socio-economic inequalities and to make consequential amendments (section 2); the power to make regulations setting out a process for the making of adjustments to common parts of residential premises in Scotland (section 37); the power to make procedural rules for the hearing of disability discrimination claims by the Additional Support Needs Tribunals for Scotland (paragraph 10 of Schedule 17); the power, on the application of the governing body of an educational establishment (and if satisfied that it would be educationally beneficial) to

modify an endowment whose benefits are restricted to persons of one sex (paragraph 2 of Schedule 14); the power to prescribe the regulator, qualifications body and relevant qualifications in Scotland (section 96); the power to make transitional exemption orders for single-sex education authorities or grant-aided schools in Scotland which alter their admissions arrangements so as to cease being a single-sex establishment (paragraph 4 of Schedule 11); a power to make regulations in relation to designated transport facilities (section 162).

17. The Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament. A Legislative Consent Motion in respect of the Act was passed by the Scottish Parliament on 28 January 2010.

Wales

18. Under the Welsh devolution settlement the subject matter of equal opportunities is not devolved to Wales. Section 2 of the Act provides a power for the Welsh Ministers to add any relevant Welsh body to the bodies subject to the duty in section 1 to consider socio-economic inequalities and to make consequential amendments. The Act also confers powers on the Welsh Ministers in relation to the public sector equality duty. Sections 153 and 154 give Welsh Ministers power to impose specific duties on relevant Welsh bodies and section 151 gives them power by order to amend Part 2 of Schedule 19 which specifies relevant Welsh bodies subject to the general public sector equality duty. A procedure is specified in relation to the imposition of specific duties on cross-border Welsh bodies added to Schedule 19 by a Minister of the Crown. The procedure enables the Welsh Ministers to impose specific duties in relation to the devolved Welsh functions of the cross-border bodies or provide for specific duties to be imposed by a Minister of the Crown only after consultation with the Welsh Ministers.

Northern Ireland

19. Equal opportunities and discrimination are "transferred matters" under the Northern Ireland Act 1998. As such, with a few exceptions the Act does not form part of the law of Northern Ireland. As a result, the Disability Discrimination Act 1995 (as amended), which extends throughout the United Kingdom, will remain in force for Northern Ireland as the repeal of that Act only forms part of the law of England and Wales and Scotland.

20. Section 82 enables an Order in Council to provide that Northern Ireland legislation applies in the case of persons in offshore work; and the provisions of section 105 amend the Sex Discrimination (Election Candidates) Act 2002 with the effect that the extension of the expiry date for women-only shortlists will apply in Northern Ireland as well as Great Britain.

Transposition of EU Directives

21. The Act does not itself implement EU Directives for the first time. It replaces earlier legislation which has implemented EU Directives, most of which is set out in paragraph 4 above.

Commencement

22. The following provisions will come into force on the day on which the Act is passed:

- the whole of Part 16 except sections 202 (which amends the Civil Partnership Act 2004 to allow civil partnership registrations to take place on religious premises), 206 (which brings Schedule 25 into effect) and 211 (which brings the Schedules of amendments and repeals into effect);
- section 186(2) which repeals Schedule 20 (on rail vehicle accessibility) if that Schedule is not brought into force before the end of 2010.

The remainder will be brought into force on a day or days appointed by commencement order made by a Minister of the Crown, or in the case of Part 15, an order made by the Lord Chancellor.

COMMENTARY ON SECTIONS

PART 1**: SOCIO-ECONOMIC INEQUALITIES**

Section 1***: Public sector duty regarding socio-economic inequalities***

Effect

23. This section requires specified public bodies, when making strategic decisions such as deciding priorities and setting objectives, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage. Such inequalities could include inequalities in education, health, housing, crime rates, or other matters associated with socio-economic disadvantage. It is for public bodies subject to the duty to determine which socio-economic inequalities they are in a position to influence.

24. The duty applies to the listed public bodies, which have strategic functions — these include Government departments, local authorities and NHS bodies. In addition, the duty applies to other public bodies which work in partnership with a local authority to draw up the sustainable community strategy for an area, when they are drawing up that strategy. These partner public bodies are specified in the Local Government and Public Involvement in Health Act 2007.

25. Public bodies are required to take into account guidance issued by a Minister of the Crown when deciding how to fulfil the duty.

26. The duty does not require public bodies to consider how to reduce inequalities resulting from people being subject to immigration control.

Background

27. This is a new provision.

Examples

- The Department of Health decides to improve the provision of primary care services. They find evidence that people suffering socio-economic disadvantage are less likely to access such services during working hours, due to their conditions of employment. The Department therefore advises that such services should be available at other times of the day.
- Under the duty, a Regional Development Agency (RDA), when reviewing its funding programmes, could decide to amend the selection criteria for a programme designed to promote business development, to encourage more successful bids from deprived areas. The same RDA could also decide to continue a programme aimed at generating more jobs in the IT sector which, despite not contributing to a reduction in socio-economic inequalities, has wider economic benefits in attracting more well-paid jobs to the region. This decision would comply with the duty, because the RDA would have given due consideration to reducing socio-economic inequalities.
- The duty could lead a local education authority, when conducting a strategic review of its school applications process, to analyse the impact of its campaign to inform parents about the applications process, looking particularly at different neighbourhoods. If the results suggest that parents in more deprived areas are less likely to access or make use of the information provided, the authority could decide to carry out additional work in those neighbourhoods in future campaigns, to ensure that children from deprived areas have a better chance of securing a place at their school of choice.

Section 2***: Power to amend*** section 1

Effect

28. This section enables a Minister of the Crown or, in the case of Welsh or Scottish bodies, the Welsh or Scottish Ministers to make regulations amending the list of public bodies which are subject to the duty in section 1, and to limit or extend the functions of a listed body to which the duty applies. The duty can only be imposed on Welsh or Scottish bodies that carry out the same or a similar role to those carried out by a body listed in section 1.

29. It also enables the Welsh or Scottish Ministers to make other consequential amendments to section 1 which they consider are needed as a result of adding bodies to section 1. This includes adding a power for the Welsh or Scottish Ministers to issue guidance for Welsh or Scottish bodies respectively and to impose a requirement that those bodies take the relevant guidance into account. Where they issue guidance to bodies they have listed, the Welsh or Scottish Ministers can remove the requirement for those bodies to take into account guidance issued by a Minister of the Crown.

30. It also provides that a Minister of the Crown may not apply the duty to any devolved Welsh or Scottish functions.

Background

31. This is a new provision.

Examples

- A new public body is created in England to deal with regeneration. The Minister decides that it should give consideration to reducing socio-economic inequalities when making strategic decisions. The Minister makes regulations to add the body to the list in section 1.
- The Welsh Ministers decide they would like the duty to apply to local authorities in Wales, starting a year after the duty starts to apply in England. They consult the relevant Minister of the Crown, and make regulations to apply the duty to those bodies from their proposed commencement date.
- The Welsh Ministers then decide they would like to issue guidance to Welsh local authorities on how to fulfil the duty. They consult the relevant Minister of the Crown about this, and take into account the guidance the Minister of the Crown has issued in relation to English local authorities. They then issue their guidance, which Welsh local authorities must take account of in fulfilling the duty.

Section 3***: Enforcement***

Effect

32. This section ensures that individuals have no recourse to private law because of a failure by a public body to comply with the duty imposed by section 1. This means that individuals are not able to claim damages for breach of statutory duty for a breach of this duty. However, this section does not prevent an individual from bringing judicial review proceedings against a public body which is covered by the duty, if he or she believes the public body has not considered socio-economic disadvantage when taking decisions of a strategic nature.

Background

33. This is a new provision.

Example

• An individual feels that the socio-economic disadvantages he faces should entitle him to a flat in a new social housing development, ahead of those whom he judges to be less disadvantaged. However, there is no provision in this Act for him to bring a case against the local council or other public body in such circumstances.

PART 2**: EQUALITY: KEY CONCEPTS**

Chapter 1**: Protected characteristics**

Section 4***: The protected characteristics***

Effect

34. This section lists the characteristics that are protected by subsequent provisions in the Act.

Background

35. The protected characteristics listed are the same as those protected by previous discrimination legislation in Great Britain.

Section 5***: Age***

Effect

36. This section establishes that where the Act refers to the protected characteristic of age, it means a person belonging to a particular age group. An age group includes people of the same age and people of a particular range of ages. Where people fall in the same age group they share the protected characteristic of age.

Background

37. This section replaces a provision in the Employment Equality (Age) Regulations 2006.

Examples

• An age group would include "over fifties" or twenty-one year olds.

• A person aged twenty-one does not share the same characteristic of age with "people in their forties". However, a person aged twenty-one and people in their forties can share the characteristic of being in the "under fifty" age range.

Section 6***: Disability***

Effect

38. This section establishes who is to be considered as having the protected characteristic of disability and is a disabled person for the purposes of the Act. With Schedule 1 and regulations to be made under that Schedule, it will also establish what constitutes a disability. Where people have the same disability, they share the protected characteristic of disability.

39. It provides for Ministers to issue statutory guidance to help those who need to decide whether a person has a disability for the purposes of the Act.

Background

40. This section, Schedule 1, and regulations to be made under Schedule 1 replace similar provisions in the Disability Discrimination Act 1995 and provisions in secondary legislation made under that Act.

Examples

• A man works in a warehouse, loading and unloading heavy stock. He develops a long-term heart condition and no longer has the ability to lift or move heavy items of stock at work. Lifting and moving such heavy items is not a normal day-to-day activity. However, he is also unable to lift, carry or move moderately heavy everyday objects such as chairs, at work or around the home. This is an adverse effect on a normal day-to-day activity. He is likely to be considered a disabled person for the purposes of the Act.

• A young woman has developed colitis, an inflammatory bowel disease. The condition is a chronic one which is subject to periods of remissions and flareups. During a flare-up she experiences severe abdominal pain and bouts of diarrhoea. This makes it very difficult for her to travel or go to work. This has a substantial adverse effect on her ability to carry out normal day-to-day activities. She is likely to be considered a disabled person for the purposes of the Act.

Section 7***: Gender reassignment***

Effect

41. This section defines the protected characteristic of gender reassignment for the purposes of the Act as where a person has proposed, started or completed a process to change his or her sex. A transsexual person has the protected characteristic of gender reassignment.

42. The section also explains that a reference to people who have or share the common characteristic of gender reassignment is a reference to all transsexual people. A woman making the transition to being a man and a man making the transition to being a woman both share the characteristic of gender reassignment, as does a person who has only just started out on the process of changing his or her sex and a person who has completed the process.

Background

43. This section replaces similar provisions in the Sex Discrimination Act 1975 but changes the definition by no longer requiring a person to be under medical supervision to come within it.

Examples

• A person who was born physically male decides to spend the rest of his life living as a woman. He declares his intention to his manager at work, who makes appropriate arrangements, and she then starts life at work and home as a woman. After discussion with her doctor and a Gender Identity Clinic, she starts hormone treatment and after several years she goes through gender reassignment surgery. She would have the protected characteristic of gender reassignment for the purposes of the Act.

• A person who was born physically female decides to spend the rest of her life as a man. He starts and continues to live as a man. He decides not to seek medical advice as he successfully ‘passes’ as a man without the need for any medical intervention. He would have the protected characteristic of gender reassignment for the purposes of the Act.

Section 8***: Marriage and civil partnership***

Effect

44. This section defines the protected characteristic of marriage and civil partnership. People who are not married or civil partners do not have this characteristic.

45. The section also explains that people who have or share the common characteristics of being married or of being a civil partner can be described as being in a marriage or civil partnership. A

married man and a woman in a civil partnership both share the protected characteristic of marriage and civil partnership.

Background

46. This section replaces similar provisions in the Sex Discrimination Act 1975.

Examples

- A person who is engaged to be married is not married and therefore does not have this protected characteristic.
- A divorcee or a person whose civil partnership has been dissolved is not married or in a civil partnership and therefore does not have this protected characteristic.

Section 9***: Race***

Effect

47. This section defines the protected characteristic of race. For the purposes of the Act, "race" includes colour, nationality and ethnic or national origins.

48. The section explains that people who have or share characteristics of colour, nationality or ethnic or national origins can be described as belonging to a particular racial group. A racial group can be made up of two or more different racial groups.

49. The section also enables a Minister of the Crown to amend the Act by order so as to add "caste" to the current definition of "race". When exercising this power, the Minister may amend the Act, for example by including exceptions for caste, or making particular provisions of the Act apply in relation to caste in some but not other circumstances. The term "caste" denotes a hereditary, endogamous (marrying within the group) community associated with a traditional occupation and ranked accordingly on a perceived scale of ritual purity. It is generally (but not exclusively) associated with South Asia, particularly India, and its diaspora. It can encompass the four classes (varnas) of Hindu tradition (the Brahmin, Kshatriya, Vaishya and Shudra communities); the thousands of regional Hindu, Sikh, Christian, Muslim or other religious groups known as jatis; and groups amongst South Asian Muslims called biradaris. Some jatis regarded as below the varna hierarchy (once termed "untouchable") are known as Dalit.

Background

50. This section replaces similar provisions in the Race Relations Act 1976. However, the power to add caste to the definition of race is a new provision.

Examples

- Colour includes being black or white.
- Nationality includes being a British, Australian or Swiss citizen.
- Ethnic or national origins include being from a Roma background or of Chinese heritage.
- A racial group could be "black Britons" which would encompass those people who are both black and who are British citizens.

Section 10***: Religion or belief***

Effect

51. This section defines the protected characteristic of religion or religious or philosophical belief, which is stated to include for this purpose a lack of religion or belief. It is a broad definition in line with the freedom of thought, conscience and religion guaranteed by Article 9 of the European

Convention on Human Rights. The main limitation for the purposes of Article 9 is that the religion must have a clear structure and belief system. Denominations or sects within a religion can be considered to be a religion or belief, such as Protestants and Catholics within Christianity.

52. The criteria for determining what is a "philosophical belief" are that it must be genuinely held; be a belief and not an opinion or viewpoint based on the present state of information available; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion and importance; and be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others. So, for example, any cult involved in illegal activities would not satisfy these criteria. The section provides that people who are of the same religion or belief share the protected characteristic of religion or belief. Depending on the context, this could mean people who, for example, share the characteristic of being Protestant or people who share the characteristic of being Christian.

Background

53. This section replaces similar provisions in the Employment Equality (Religion or Belief) Regulations 2003 and the Equality Act 2006.

Examples

- The Baha'i faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrianism are all religions for the purposes of this provision.
- Beliefs such as humanism and atheism would be beliefs for the purposes of this provision but adherence to a particular football team would not be.

Section 11***: Sex***

Effect

54. This section is a new provision which explains that references in the Act to people having the protected characteristic of sex are to mean being a man or a woman, and that men share this characteristic with other men, and women with other women.

Section 12***: Sexual orientation***

Effect

55. This section defines the protected characteristic of sexual orientation as being a person's sexual orientation towards:

- people of the same sex as him or her (in other words the person is a gay man or a lesbian)
- people of the opposite sex from him or her (the person is heterosexual)
- people of both sexes (the person is bisexual).

56. It also explains that references to people sharing a sexual orientation mean that they are of the same sexual orientation.

Background

57. The definition is designed to replicate the effect of similar provisions in the Employment Equality (Sexual Orientation) Regulations 2003 and the Equality Act 2006.

Examples

- A man who experiences sexual attraction towards both men and women is "bisexual" in terms of sexual orientation even if he has only had relationships with women.

• A man and a woman who are both attracted only to people of the opposite sex from them share a sexual orientation.
• A man who is attracted only to other men is a gay man. A woman who is attracted only to other women is a lesbian. So a gay man and a lesbian share a sexual orientation.

Chapter 2**: Prohibited conduct**

Section 13***: Direct discrimination***

Effect

58. This section defines direct discrimination for the purposes of the Act.

59. Direct discrimination occurs where the reason for a person being treated less favourably than another is a protected characteristic listed in section 4. This definition is broad enough to cover cases where the less favourable treatment is because of the victim's association with someone who has that characteristic (for example, is disabled), or because the victim is wrongly thought to have it (for example, a particular religious belief).

60. However, a different approach applies where the reason for the treatment is marriage or civil partnership, in which case only less favourable treatment because of the victim's status amounts to discrimination. It must be the victim, rather than anybody else, who is married or a civil partner.

61. This section uses the words “because of” where the previous legislation contains various definitions using the words “on grounds of”. This change in wording does not change the legal meaning of the definition, but rather is designed to make it more accessible to the ordinary user of the Act.

62. The section also provides that:
• for age, different treatment that is justified as a proportionate means of meeting a legitimate aim is not direct discrimination;
• in relation to disability it is not discrimination to treat a disabled person more favourably than a person who is not disabled;
• racial segregation is always discriminatory;
• in non-work cases, treating a woman less favourably because she is breast-feeding a baby who is more than six months old amounts to direct sex discrimination; and
• men cannot claim privileges for women connected with pregnancy or childbirth.

Background

63. The section replaces the definitions of direct discrimination in previous legislation and is designed to provide a more uniform approach by removing the former specific requirement for the victim of the discrimination to have one of the protected characteristics of age, disability, gender reassignment and sex. Accordingly, it brings the position in relation to these protected characteristics into line with that for race, sexual orientation and religion or belief in the previous legislation.

Examples
• If an employer recruits a man rather than a woman because she assumes that women do not have the strength to do the job, this would be direct sex discrimination.
• If a Muslim shopkeeper refuses to serve a Muslim woman because she is married to a Christian, this would be direct religious or belief-related discrimination on the basis of her association with her husband.

• If an employer rejects a job application form from a white man who he wrongly thinks is black, because the applicant has an African-sounding name, this would constitute direct race discrimination based on the employer's mistaken perception.
• If an employer advertising a vacancy makes it clear in the advert that Roma need not apply, this would amount to direct race discrimination against a Roma who might reasonably have considered applying for the job but was deterred from doing so because of the advertisement.
• If the manager of a nightclub is disciplined for refusing to carry out an instruction to exclude older customers from the club, this would be direct age discrimination against the manager unless the instruction could be justified.

Section 14***: Combined discrimination: dual characteristics***

Effect

64. This section provides for the discrimination prohibited by the Act to include direct discrimination because of a combination of two protected characteristics ("dual discrimination"). The protected characteristics which may be combined are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

65. For a claim to be successful, the claimant must show that the less favourable treatment was because of the combination alleged, as compared with how a person who does not share either of the characteristics in the combination is or would be treated. A dual discrimination claim will not succeed where an exception or justification applies to the treatment in respect of either of the relevant protected characteristics – for example, where an occupational requirement in Schedule 9 (Work: exceptions) renders direct discrimination lawful.

66. The claimant does not have to show that a claim of direct discrimination in respect of each protected characteristic would have been successful if brought separately. A claimant is not prevented from bringing direct discrimination claims because of individual protected characteristics and a dual discrimination claim simultaneously (or more than one dual discrimination claim). Excluded from the scope of this section are circumstances involving disability discrimination in schools (claims in respect of which are heard by the Special Educational Needs and Disability Tribunals or equivalent specialist tribunals). This section enables a Minister of the Crown to make orders specifying further what a claimant does or does not need to show to prove dual discrimination or further restricting the circumstances in which dual discrimination is prohibited by the Act.

67. As with any other type of prohibited conduct under the Act, proceedings or allegations (among other activities) relating to dual discrimination will constitute a "protected act" for purposes of victimisation (section 27). Moreover, public bodies must have due regard to the need to eliminate unlawful dual discrimination as part of the public sector equality duty (section 149).

Background

68. Previous legislation only allowed for claims alleging discrimination because of a single protected characteristic. This section allows those who have experienced less favourable treatment because of a combination of two relevant protected characteristics to bring a direct discrimination claim, such as where the single-strand approach may not succeed.

Examples

• A black woman has been passed over for promotion to work on reception because her employer thinks black women do not perform well in customer service roles. Because the

employer can point to a white woman of equivalent qualifications and experience who has been appointed to the role in question, as well as a black man of equivalent qualifications and experience in a similar role, the woman may need to be able to compare her treatment because of race and sex combined to demonstrate that she has been subjected to less favourable treatment because of her employer's prejudice against black women.

• A bus driver does not allow a Muslim man onto her bus, claiming that he could be a "terrorist". While it might not be possible for the man to demonstrate less favourable treatment because of either protected characteristic if considered separately, a dual discrimination claim will succeed if the reason for his treatment was the specific combination of sex and religion or belief, which resulted in him being stereotyped as a potential terrorist.

• A black woman is charged £100 for insurance. As white men are only charged £50 for the same insurance, she alleges this is dual discrimination because of the combination of sex and race. By comparing the claimant's treatment with a white woman who also pays £100, or a black man who pays £50, the insurance company is able to demonstrate that the difference in premium is entirely due to sex, not race. The insurance exception in Schedule 3 means that insurance companies can lawfully set different premiums for women and men in certain circumstances so provided the exception applies in this case, the treatment does not constitute dual discrimination. The less favourable treatment is because of sex and an exception makes the sex discrimination lawful.

Section 15***: Discrimination arising from disability***

Effect

69. This section provides that it is discrimination to treat a disabled person unfavourably not because of the person's disability itself but because of something arising from, or in consequence of, his or her disability, such as the need to take a period of disability-related absence. It is, however, possible to justify such treatment if it can be shown to be a proportionate means of achieving a legitimate aim. For this type of discrimination to occur, the employer or other person must know, or reasonably be expected to know, that the disabled person has a disability.

Background

70. This section is a new provision. The Disability Discrimination Act 1995 provided protection from disability-related discrimination but, following the judgment of the House of Lords in the case of *London Borough of Lewisham v Malcolm [2008] UKHL 43*, those provisions no longer provided the degree of protection from disability-related discrimination that is intended for disabled people. This section is aimed at re-establishing an appropriate balance between enabling a disabled person to make out a case of experiencing a detriment which arises because of his or her disability, and providing an opportunity for an employer or other person to defend the treatment.

Examples

• An employee with a visual impairment is dismissed because he cannot do as much work as a non-disabled colleague. If the employer sought to justify the dismissal, he would need to show that it was a proportionate means of achieving a legitimate aim.

• The licensee of a pub refuses to serve a person who has cerebral palsy because she believes that he is drunk as he has slurred speech. However, the slurred speech is a consequence of his impairment. If the licensee is able to show that she did not know, and could not reasonably have been expected to know, that the customer was disabled, she has not subjected him to discrimination arising from his disability.

• However, in the example above, if a reasonable person would have known that the behaviour was due to a disability, the licensee would have subjected the customer to discrimination arising from his disability, unless she could show that ejecting him was a proportionate means of achieving a legitimate aim.

Section 16***: Gender reassignment discrimination: cases of absence from work***

Effect

71. This section provides that it is discrimination against transsexual people to treat them less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured. Transsexual people are also discriminated against in relation to absences relating to their gender reassignment if they are treated less favourably than they would be treated for absence for reasons other than sickness or injury and it is unreasonable to treat them less favourably.

Background

72. This section is designed to replicate the effect of a similar provision in the Sex Discrimination Act 1975.

Example

• A female to male transsexual person takes time off work to receive hormone treatment as part of his gender reassignment. His employer cannot discriminate against him because of his absence from work for this purpose.

Section 17***: Pregnancy and maternity discrimination: non-work cases***

Effect

73. This section defines what it means to discriminate because of a woman's pregnancy or maternity, as distinct from her sex, in specified situations outside work. It protects a woman from discrimination because of her current or a previous pregnancy. It also protects her from maternity discrimination, which includes treating her unfavourably because she is breast-feeding, for 26 weeks after giving birth and provides that pregnancy or maternity discrimination as defined cannot be treated as sex discrimination.

Background

74. This section is designed to replicate the effect of similar provisions in the Sex Discrimination Act 1975 and extends the protection to cover discrimination in relation to public functions, education, and to associations, where no such protection previously existed.

Examples

• A café owner must not ask a woman to leave his café because she is breast-feeding her baby.
• A shopkeeper must not refuse to sell cigarettes to a woman because she is pregnant.
• A school must not prevent a pupil taking an exam because she is pregnant.

Section 18***: Pregnancy and maternity discrimination: work cases***

Effect

75. This section defines what it means to discriminate in the workplace because of a woman's pregnancy or pregnancy-related illness, or because she takes or tries to take maternity leave. The period during which protection from these types of discrimination is provided is the period of the

pregnancy and any statutory maternity leave to which she is entitled. During this period, these types of discrimination cannot be treated as sex discrimination.

Background

76. This section is designed to replicate the effect of similar provisions in the Sex Discrimination Act 1975.

Examples

- An employer must not demote or dismiss an employee, or deny her training or promotion opportunities, because she is pregnant or on maternity leave.
- An employer must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about her employment.

Section 19***: Indirect discrimination***

Effect

77. This section defines indirect discrimination for the purposes of the Act.

78. Indirect discrimination occurs when a policy which applies in the same way for everybody has an effect which particularly disadvantages people with a protected characteristic. Where a particular group is disadvantaged in this way, a person in that group is indirectly discriminated against if he or she is put at that disadvantage, unless the person applying the policy can justify it.

79. Indirect discrimination can also occur when a policy would put a person at a disadvantage if it were applied. This means, for example, that where a person is deterred from doing something, such as applying for a job or taking up an offer of service, because a policy which would be applied would result in his or her disadvantage, this may also be indirect discrimination.

80. Indirect discrimination applies to all the protected characteristics, apart from pregnancy and maternity.

Background

81. This section largely replaces similar provisions in previous legislation. It applies the EU definition of indirect discrimination, replacing pre-existing domestic definitions in the Sex Discrimination Act 1975 and the Race Relations Act 1976, to ensure uniformity of protection across all the protected characteristics in all areas where it applies. However, the extension of indirect discrimination to disability is new, coming after consultation following the judgment of the House of Lords in the case of *London Borough of Lewisham v Malcolm [2008] UKHL 43* , which concerned the interpretation of the provision on disability-related discrimination in the Disability Discrimination Act 1995.

Examples

- A woman is forced to leave her job because her employer operates a practice that staff must work in a shift pattern which she is unable to comply with because she needs to look after her children at particular times of day, and no allowances are made because of those needs. This would put women (who are shown to be more likely to be responsible for childcare) at a disadvantage, and the employer will have indirectly discriminated against the woman unless the practice can be justified.
- An observant Jewish engineer who is seeking an advanced diploma decides (even though he is sufficiently qualified to do so) not to apply to a specialist training company because it invariably undertakes the selection exercises for the relevant course on Saturdays. The

company will have indirectly discriminated against the engineer unless the practice can be justified.

Section 20***: Duty to make adjustments***

Effect

82. This section defines what is meant by the duty to make reasonable adjustments for the purposes of the Act and lists the Parts of the Act which impose the duty and the related Schedules which stipulate how the duty will apply in relation to each Part. The duty comprises three requirements which apply where a disabled person is placed at a substantial disadvantage in comparison with non-disabled people. The first requirement covers changing the way things are done (such as changing a practice), the second covers making changes to the built environment (such as providing access to a building), and the third covers providing auxiliary aids and services (such as providing special computer software or providing a different service).

83. The section makes clear that where the first or third requirements involves the way in which information is provided, a reasonable step includes providing that information in an accessible format.

84. It sets out that under the second requirement, taking steps to avoid the disadvantage will include removing, altering or providing a reasonable means of avoiding the physical feature, where it would be reasonable to do so.

85. It also makes clear that, except where the Act states otherwise, it would never be reasonable for a person bound by the duty to pass on the costs of complying with it to an individual disabled person.

Background

86. This section replaces similar provisions in the Disability Discrimination Act 1995. However, the Act makes some changes to provide consistency across the reasonable adjustment provisions. It contains only one threshold for the reasonable adjustment duty — "substantial disadvantage" — in place of the two thresholds in the Disability Discrimination Act 1995. It also reflects current practice by applying the third requirement explicitly to employment. And it introduces consistency of language by referring to "provision, criterion or practice" rather than "practice, policy or procedure" used in some provisions in the Disability Discrimination Act 1995. It also introduces greater transparency with the express references to providing information in accessible formats and to not passing on the costs of an adjustment which are explained above.

Examples

- A utility company knows that significant numbers of its customers have a sight impairment and will have difficulty reading invoices and other customer communications in standard print, so must consider how to make its communications more accessible. As a result, it might provide communications in large print to customers who require this.
- A bank is obliged to consider reasonable adjustments for a newly recruited financial adviser who is a wheelchair user and who would have difficulty negotiating her way around the customer area. In consultation with the new adviser, the bank rearranges the layout of furniture in the customer area and installs a new desk. These changes result in the new adviser being able to work alongside her colleagues.
- The organiser of a large public conference knows that hearing-impaired delegates are likely to attend. She must therefore consider how to make the conference accessible to them.

Having asked delegates what adjustments they need, she decides to engage BSL/English interpreters, have a palantypist and an induction loop to make sure that the hearing-impaired delegates are not substantially disadvantaged.

Section 21***: Failure to comply with duty***

Effect

87. This section has the effect that a failure to comply with any one of the reasonable adjustment requirements amounts to discrimination against a disabled person to whom the duty is owed. It also provides that, apart from under this Act, no other action can be taken for failure to comply with the duty.

Background

88. This section replaces similar provisions in the Disability Discrimination Act 1995.

Examples

• An employee develops carpal tunnel syndrome which makes it difficult for him to use a standard keyboard. The employer refuses to provide a modified keyboard or voice-activated software which would overcome the disadvantage. This could be an unlawful failure to make a reasonable adjustment which would constitute discrimination.

• A private club has a policy of refusing entry to male members not wearing a collar and tie for evening events. A member with psoriasis (a severe skin condition which can make the wearing of a collar and tie extremely painful) could bring a discrimination claim if the club refused to consider waiving this policy for him.

• A visually-impaired prospective tenant asks a letting agent to provide a copy of a tenancy agreement in large print. The agent refuses even though the document is held on computer and could easily be printed in a larger font. This is likely to be an unlawful failure to make a reasonable adjustment which would constitute discrimination.

Section 22***: Regulations***

Effect

89. This section provides a power for a Minister of the Crown to make regulations about a range of issues relating to the reasonable adjustment duty, such as the circumstances in which a particular step will be regarded as reasonable. This power also allows amendment of the Schedules referred to in section 20(13).

Background

90. This section replaces similar provisions in the Disability Discrimination Act 1995.

Example

• Regulations could be made about what is and what is not included within the meaning of a "provision, criterion or practice" if, for example, research indicated that despite statutory codes of practice there was quite a high level of uncertainty among employers and service providers about the extent of the duty and how it applied.

Section 23***: Comparison by reference to circumstances***

Effect

91. This section provides that like must be compared with like in cases of direct, dual or indirect discrimination. The treatment of the claimant must be compared with that of an actual or a

hypothetical person — the comparator — who does not share the same protected characteristic as the claimant (or, in the case of dual discrimination, either of the protected characteristics in the combination) but who is (or is assumed to be) in not materially different circumstances from the claimant. In cases of direct or dual discrimination, those circumstances can include their respective abilities where the claimant is a disabled person.

92. The section also enables a civil partner who is treated less favourably than a married person in similar circumstances to bring a claim for sexual orientation discrimination.

Background

93. The section replicates similar provisions in previous legislation but also accommodates the new concept of dual discrimination.

Examples

- A blind woman claims she was not shortlisted for a job involving computers because the employer wrongly assumed that blind people cannot use them. An appropriate comparator is a person who is not blind — it could be a non-disabled person or someone with a different disability — but who has the same ability to do the job as the claimant.
- A Muslim employee is put at a disadvantage by his employer's practice of not allowing requests for time off work on Fridays. The comparison that must be made is in terms of the impact of that practice on non-Muslim employees in similar circumstances to whom it is (or might be) applied.

Section 24***: Irrelevance of alleged discriminator's characteristics***

Effect

94. This section provides that it is no defence to a claim of direct or dual discrimination that the alleged discriminator shares the protected characteristic (or one or both of the protected characteristics in a dual discrimination claim) with the victim. The discriminator will still be liable for any unlawful discrimination. The wording of the section is broad enough to cover cases of discrimination based on association or perception.

Background

95. Previous legislation only expressly provided that it was no defence to a claim of direct discrimination that the alleged discriminator shared the same religion or belief as the victim. This section makes clear that the same principle applies, as at present, for other protected characteristics and makes similar provision in relation to the new concept of dual discrimination.

Example

- An employer cannot argue that because he is a gay man he is not liable for unlawful discrimination for rejecting a job application from another gay man because of the applicant's sexual orientation.

Section 25***: References to particular strands of discrimination***

Effect

96. This section sets out what is meant by references to the types of discrimination referred to in the Act, so that references elsewhere in the Act to age, marriage and civil partnership, race, religious or belief-related, sex or sexual orientation discrimination, include references to both direct and indirect discrimination because of each of those characteristics respectively.

97. As well as direct and indirect discrimination, references to disability discrimination also include references to discrimination arising from disability and to a failure to comply with a duty to make reasonable adjustments; and references to gender reassignment discrimination also include discrimination within section 16 (gender reassignment discrimination: cases of absence from work). Finally, references to pregnancy and maternity discrimination have the meanings derived from sections 17 and 18.

Section 26***: Harassment***

Effect

98. This section defines what is meant by harassment for the purposes of the Act. There are three types of harassment. The first type, which applies to all the protected characteristics apart from pregnancy and maternity, and marriage and civil partnership, involves unwanted conduct which is related to a relevant characteristic and has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant or of violating the complainant's dignity. The second type is sexual harassment which is unwanted conduct of a sexual nature where this has the same purpose or effect as the first type of harassment. The third type is treating someone less favourably because he or she has either submitted to or rejected sexual harassment, or harassment related to sex or gender reassignment.

Background

99. Previous legislation provided freestanding protection against harassment, but the first type of harassment described above was not defined in the same way for all the different protected characteristics to which it applied. In determining the effect of the unwanted conduct, courts and tribunals will continue to be required to balance competing rights on the facts of a particular case. For example, this could include balancing the rights of freedom of expression (as set out in Article 10 of the European Convention on Human Rights) and of academic freedom against the right not to be offended in deciding whether a person has been harassed.

Examples

- A white worker who sees a black colleague being subjected to racially abusive language could have a case of harassment if the language also causes an offensive environment for her.
- An employer who displays any material of a sexual nature, such as a topless calendar, may be harassing her employees where this makes the workplace an offensive place to work for any employee, female or male.
- A shopkeeper propositions one of his shop assistants. She rejects his advances and then is turned down for promotion which she believes she would have got if she had accepted her boss's advances. The shop assistant would have a claim of harassment.

Section 27***: Victimisation***

Effect

100. This section defines what conduct amounts to victimisation under the Act. It provides that victimisation takes place where one person treats another badly because he or she in good faith has done a “protected act”, for example taken or supported any action taken for the purpose of the Act, including in relation to any alleged breach of its provisions. It also provides that victimisation takes place where one person treats another badly because he or she is suspected of having done this or of intending to do this.

101. A person is not protected from victimisation where he or she maliciously makes or supports an untrue complaint.

102. Only an individual can bring a claim for victimisation.

Background

103. This section replaces similar provisions in previous legislation. However, under the Act victimisation is technically no longer treated as a form of discrimination, so there is no longer a need to compare treatment of an alleged victim with that of a person who has not made or supported a complaint under the Act.

Examples

- A woman makes a complaint of sex discrimination against her employer. As a result, she is denied promotion. The denial of promotion would amount to victimisation.
- A gay man sues a publican for persistently treating him less well than heterosexual customers. Because of this, the publican bars him from the pub altogether. This would be victimisation.
- An employer threatens to dismiss a staff member because he thinks she intends to support a colleague's sexual harassment claim. This threat could amount to victimisation.
- A man with a grudge against his employer knowingly gives false evidence in a colleague's discrimination claim against the employer. He is subsequently dismissed for supporting the claim. His dismissal would not amount to victimisation because of his untrue and malicious evidence.

PART 3**: SERVICES AND PUBLIC FUNCTIONS**

Section 28***: Application of this Part***

Effect

104. This section provides that this Part of the Act, which prohibits discrimination, harassment and victimisation by people who supply services (which includes goods and facilities) or perform public functions, does not apply to discrimination or harassment of people in those circumstances because they are married or in a civil partnership or because of age if they are under 18.

105. It also states that, if an act of discrimination, harassment or victimisation is made unlawful by other Parts of the Act covering premises, work or education, then those provisions, rather than the provisions covering services and public functions, apply. Similarly, if the act in question results in a breach of an equality clause in a person's terms of work or a non-discrimination rule in an occupational pension scheme, this Part will not apply.

Background

106. This section generally reflects the position in previous legislation. However, since the prohibition on discrimination because of age in services and public functions will not be extended to the under 18s, this section explains that the provisions in this Part do not apply to under 18s in respect of the protected characteristic of age.

Section 29***: Provision of services, etc.***

Effect

107. This section makes it unlawful to discriminate against or harass a person because of a protected characteristic, or victimise someone when providing services (which includes goods and facilities).

The person is protected both when requesting a service and during the course of being provided with a service.

108. It also makes it unlawful to discriminate against, harass or victimise a person when exercising a public function which does not involve the provision of a service. Examples of such public functions include law enforcement and revenue raising and collection. Public functions which involve the provision of a service, for example, medical treatment on the NHS, are covered by the provisions dealing with services.

109. It also imposes the duty to make reasonable adjustments set out in section 20 in relation to providing services and exercising public functions. A person is considered to have discriminated against a disabled person if he or she fails to comply with the duty to make reasonable adjustments.

110. However, the prohibition on harassment when providing services or exercising public functions does not cover sexual orientation or religion or belief.

111. The prohibitions in this section apply, in relation to race or religion or belief, to any actions taken in connection with the grant of entry clearance to enter the United Kingdom, even if the act in question takes place outside the United Kingdom.

Background

112. Previous legislation provided some protection from discrimination, harassment and victimisation in the provision of services and the exercise of public functions. However, the protection was not uniform for the different protected characteristics. For example, there was no protection from discrimination in the exercise of public functions because of pregnancy and maternity or because a person is intending to undergo, is undergoing or has undergone gender reassignment. Also there was no protection for discrimination because of age, either in the provision of services or in the exercise of public functions.

113. This section replaces the provisions in previous legislation and extends protection so that it is generally uniform across all the protected characteristics covered by this Part. However, as under previous law, there is no express protection for harassment related to religion or belief or sexual orientation in either the provision of services or the exercise of public functions. Conduct that would otherwise have fallen within the definition of harassment may still amount to direct discrimination, as section 212(5) makes clear.

Examples

- A man and two female friends plan a night out at a local night club. At the entrance the man is charged £10 entry; the two women are charged £5 each. The owner explains the night club is trying to attract more women and has decided to charge them half the entrance fee. This would be direct sex discrimination.
- A company which organises outdoor activity breaks requires protective headwear to be worn for certain activities, such as white water rafting and rock climbing. This requirement could be indirectly discriminatory against Sikhs unless it can be justified, for example on health and safety grounds.
- A man who suffers from long-standing and serious health problems, including partial paralysis and a severe sight impairment, is imprisoned. On his imprisonment, the man is not allocated an adapted cell, despite being assessed as requiring one within 24 hours of arriving at prison. Instead, he is allocated a standard cell. This would be discrimination resulting from a failure to make reasonable adjustments to take account of a person's disability.

• A black man goes into a bar to watch a football match. He is served a pint of beer and takes a seat at an empty table. Whilst watching the football match the bartender and a number of customers make racist remarks about some of the footballers on the pitch. When the man complains he is then called a number of derogatory names. This would be harassment because of race.

Section 30***: Ships and hovercraft***

Effect

114. This section provides that the services provisions will only apply to ships and hovercraft in the way set out in regulations made by a Minister of the Crown. The section also provides that in relation to the exercise of public functions that do not involve providing a service to the public, section 29(6) applies to ships and hovercraft in all cases except disability discrimination for which regulations will be needed.

115. As ships and hovercraft may be constantly moving between waters under the jurisdiction of different States or be outside the jurisdiction of any State, such regulations are needed to give certainty for people who provide or receive services in relation to ships and hovercraft about whether the services and public functions provisions apply.

Background

116. Previous legislation specified the territorial application of the services provisions, dealing specifically with ships and hovercraft (for example, section 36 of the Sex Discrimination Act 1975 and section 27 of the Race Relations Act 1976). As the Act is silent on the territorial application of the services provisions, regulations made under this section will ensure that there is clarity about when and on which ships and hovercraft the services provisions apply.

Section 31***: Interpretation and exceptions***

Effect

117. This section explains what is meant by the terms “provision of a service” and “public function” in the Act. The definition of a “public function” is that which applies for the purposes of the Human Rights Act 1998. The public functions provisions apply only where what is being done does not fall within the definition of a “service”.

118. This section also explains that refusing to provide or not providing a service includes providing a person with a service of different quality, or in a different way (for example hostile or less courteous) or on less favourable terms than the service would normally be provided.

119. This section provides that where an employer arranges for another person to provide a service to a closed group of employees, then the members of that closed group are to be treated as a section of the public for the purposes of their relationship with the service-provider. This means that if the service-provider discriminates against members of that group, the prohibitions in this Part apply. However, the employer is not to be treated as a service-provider, despite facilitating access to the service. Instead, his or her conduct in respect of his or her employees is to be governed by the provisions in Part 5 (work).

120. Further details of how the reasonable adjustments duty applies in relation to providing services and exercising public functions are contained in Schedule 2.

121. The exceptions which apply to this Part of the Act are contained in Schedule 3.

Background

122. Much of what is contained in this section has its origins in previous legislation, but this is now brought together in an interpretation section rather than in the substantive provisions as was the case in the previous legislation. The subsection concerning employers arranging for provision of services to their employees by another person is new.

Examples

- Services include the provision of day care, the running of residential care homes and leisure centre facilities, whether provided by a private body or a local authority.
- Public functions not involving the provision of a service include licensing functions; Government and local authority public consultation exercises; the provision of public highways; planning permission decisions; and core functions of the prison service and the probation service.
- The definition of refusing to provide a service covers, for example, a bank which has a policy not to accept calls from customers through a third party. This could amount to indirect discrimination against a deaf person who uses a registered interpreter to call the bank.
- An employer arranges for an insurer to provide a group health insurance scheme to his employees. The insurer refuses to provide cover on the same terms to one of the employees because she is transsexual. This would be treated as direct discrimination in the provision of services by the insurer against the employee in the same way as if the insurance was available to the general public. However, if it was the employer, rather than the insurer, who decided that the transsexual employee should not be able to access the group health insurance scheme, such discrimination in the employee's access to benefits in the workplace would be covered by the provisions of Part 5 (work).

PART 4**: PREMISES**

Section 32***: Application of this Part***

Effect

123. This section provides that this Part of the Act, which prohibits discrimination, harassment and victimisation in relation to the disposal, management and occupation of premises, does not make it unlawful to discriminate against or harass people in those circumstances because they are married or in a civil partnership or because of age.

124. It also states that, if an act of discrimination, harassment or victimisation is made unlawful by other Parts of the Act covering work or education, then those provisions, rather than the provisions covering premises, apply. Further, where accommodation is provided either as a short-term let or where it is provided as part of a service or public function, Part 3 (services and public functions) applies instead of this Part. If the act in question results in a breach of an equality clause in a person's terms of work or a non-discrimination rule in an occupational pension scheme then these provisions will not apply.

Background

125. This provision broadly reflects the position in the previous legislation, which gave protection from discrimination in the disposal and management of premises across all the protected characteristics with the exception of age and marriage and civil partnership.

Section 33***: Disposals, etc.***

Effect

126. This section makes it unlawful for a person who has the authority to dispose of premises (for example, by selling, letting or subletting a property) to discriminate against or victimise someone else in a number of ways including by offering the premises to them on less favourable terms; by not letting or selling the premises to them or by treating them less favourably.

127. It also makes it unlawful for a person with authority to dispose of premises to harass someone who occupies or applies for them. The Act does not however make it unlawful to harass someone because of sexual orientation or religion or belief when disposing of premises.

Background

128. This section replaces similar provisions in previous legislation. Conduct that would otherwise have fallen within the definition of harassment may still amount to direct discrimination, as section 212(5) makes clear.

Examples

- A landlord refuses to let a property to a prospective tenant because of her race. This is direct discrimination when disposing of premises.
- A vendor offers her property to a prospective buyer who is disabled at a higher sale price than she would to a non-disabled person, because of the person's disability. This is direct discrimination when disposing of premises.

Section 34***: Permission for disposal***

Effect

129. This section makes it unlawful for a person whose permission is needed to dispose of premises (for example, to sell, let or sublet a property) to discriminate against or victimise someone else by withholding that permission. It also makes it unlawful for such a person to harass someone who seeks that permission, or someone to whom the property would be sold or let if the permission were given. The Act does not however make it unlawful to harass someone because of sexual orientation or religion or belief by withholding permission to dispose of premises.

130. This section does not apply where permission to dispose of premises is refused by a court in the context of legal proceedings.

Background

131. This section replaces similar provisions in previous legislation.

Example

- A disabled tenant seeks permission from his landlord to sublet a room within his flat to help him pay his rent. The landlord tells him that he cannot because he is disabled. This is direct discrimination in permission for disposing of premises.

Section 35***: Management***

Effect

132. This section makes it unlawful for a person who manages premises to discriminate against or victimise someone who occupies the property in the way he or she allows the person to use a benefit or facility associated with the property, by evicting the person or by otherwise treating the person unfavourably. It also makes it unlawful for a person who manages a property to harass a person

who occupies or applies to occupy it. The Act does not however make it unlawful to harass someone because of sexual orientation or religion or belief in the management of premises.

Background

133. This section replaces similar provisions in previous legislation.

Examples

- A manager of a property restricts a tenant's use of a communal garden by setting fixed times when she can use the garden because she is undergoing gender reassignment, while allowing other tenants unrestricted access to the garden. This would be direct discrimination in the management of premises.
- A manager of a property refuses to allow a lesbian tenant to use facilities which are available to other tenants, or deliberately neglects to inform her about facilities which are available for the use of other tenants, because she had previously made a claim of discrimination against the manager. This would be victimisation.
- A manager of a property responds to requests for maintenance issues more slowly or less favourably for one tenant than similar requests from other tenants, because the tenant has a learning disability. This would be direct discrimination in the management of premises.

Section 36***: Leasehold and commonhold premises and common parts***

Effect

134. This section imposes the reasonable adjustments duty on those who let premises, commonhold associations, and those who are responsible for the common parts of let or commonhold premises in England and Wales. This section also defines who is responsible for common parts, defines common parts and includes a power to prescribe premises to which the requirements do not apply.

Background

135. Part of this section replaces similar provisions in the Disability Discrimination Act 1995 relating to let premises and premises to let. The provisions relating to common parts are new.

Example

- An agency used by a landlord to let and manage leasehold premises is a controller of premises under this provision and therefore is under the duty to make reasonable adjustments for disabled people, such as making information about the property available in accessible formats.

Section 37***: Adjustments to common parts in Scotland***

Effect

136. This section confers a power on the Scottish Ministers to make regulations entitling disabled people to make disability-related alterations to the common parts of some residential property in Scotland.

137. This section also sets out what matters the regulations may provide for; provides that the Scottish Ministers must consult a Minister of the Crown before exercising the power; and defines “common parts” and “relevant adjustments”.

Background

138. This provision is new. It is intended to facilitate disability-related alterations to the common parts of residential premises in Scotland where the premises are the disabled person's only or main

home. Provision for disabled people in tenanted property in Scotland was made in the Housing (Scotland) Act 2006, but in relation to common parts those provisions cover only the consent required from the person's landlord and not that required from other common owners. As the process for obtaining consent from common owners will need to fit into, and operate within, the Scottish devolved areas of property and housing, land registration and civil justice, it is considered appropriate to confer a power on the Scottish Ministers to permit them to make the necessary provision by means of secondary legislation.

Section 38***: Interpretation and exceptions***

Effect

139. This section explains what is meant by terms used in this Part. In particular it sets out the kinds of property transactions meant by “disposing of premises” in the case of premises which are subject to a tenancy, and defines what is meant by “tenancy”. It also makes it clear that the provisions apply to tenancies made before as well as after the Act.

140. The details of how the reasonable adjustments duty applies in relation to “let premises”, “premises to let”, “commonhold land” and “common parts” of let or commonhold premises are contained in Schedule 4.

141. The exceptions which apply to this part of the Act are contained in Schedule 5.

Background

142. This section replaces similar provisions in previous legislation.

PART 5**: WORK**

Chapter 1**: Employment, etc.**

Section 39***: Employees and applicants***

Effect

143. This section makes it unlawful for an employer to discriminate against or victimise employees and people seeking work. It applies where the employer is making arrangements to fill a job, and in respect of anything done in the course of a person's employment. In respect of discrimination because of sex or pregnancy and maternity, a term of an offer of employment which relates to pay is treated as discriminatory where, if accepted, it would give rise to an equality clause or if an equality clause does not apply, where the offer of the term constitutes direct or dual discrimination. It also imposes the reasonable adjustments duty set out in section 20 on employers in respect of disabled employees and applicants.

Background

144. This section replaces similar provisions in previous legislation.

Examples

- An employer decides not to shortlist for interview a disabled job applicant because of her epilepsy. This would be direct discrimination.
- An employer offers a woman a job on lower pay than the set rate because she is pregnant when she applies. She cannot bring an equality clause case as there is no comparator. However, she will be able to claim direct discrimination.

• An employer refuses to interview a man applying for promotion, because he previously supported a discrimination case against the employer brought by another employee. This would be victimisation.
• An employer enforces a “no beards” policy by asking staff to shave. This could be indirect discrimination, because it would have a particular impact on Muslims or Orthodox Jews.

Section 40***: Employees and applicants: harassment***

Effect

145. This section makes it unlawful for an employer to harass employees and people applying for employment. It also makes the employer liable for harassment of its employees by third parties, such as customers or clients, over whom the employer does not have direct control. Liability in relation to third party harassment will however only arise when harassment has occurred on at least two previous occasions, the employer is aware that it has taken place, and has not taken reasonable steps to prevent it happening again.

Background

146. This section is designed to replicate the effect of provisions in the Sex Discrimination Act 1975 as regards harassment by employers, and extend to the other protected characteristics (apart from marriage and civil partnership and pregnancy and maternity) the position in relation to employer liability for sex harassment under that Act.

Example

• A shop assistant with a strong Nigerian accent tells her manager that she is upset and humiliated by a customer who regularly uses the shop and each time makes derogatory remarks about Africans in her hearing. If her manager does nothing to try to stop it happening again, he would be liable for racial harassment.

Section 41***: Contract workers***

Effect

147. This section makes it unlawful for a person (referred to as a principal) who makes work available to contract workers to discriminate against, harass or victimise them. Contract workers are separately protected from discrimination by their employer (for example, the agency for which they work and which places them with the principal) under section 39. This section also imposes a duty on the principal to make reasonable adjustments for disabled contract workers (in addition to the duty on the contract worker's employer).

Background

148. This section is designed to replicate the effect of provisions in previous legislation, while codifying case law to make clear that there does not need to be a direct contractual relationship between the employer and the principal for this protection to apply.

Examples

• A hotel manager refuses to accept a black African contract worker sent to him by an agency because of fears that guests would be put off by his accent. This would be direct discrimination.
• A bank treats a female contract worker less well than her male counterparts, for example by insisting that as she is a woman she should make coffee for all meetings. This would be direct discrimination.

Section 42***: Identity of employer***

Effect

149. This section provides that police constables and police cadets are treated as employees for the purposes of this Part of the Act. It identifies the relevant employer as either the chief officer (or, in Scotland, the chief constable) or the responsible authority as defined in section 43, depending on who commits the act in question.

150. Constables serving with the Civil Nuclear Constabulary are treated as employees of the Civil Nuclear Police Authority.

151. A constable seconded to the Serious Organised Crime Agency (SOCA) or Scottish Police Services Authority (SPSA) is treated as employed by SOCA or SPSA.

152. A constable at the Scottish Crime and Drugs Enforcement Agency (SCDEA) is treated as employed by the Director General of SCDEA.

Background

153. This section is designed to replicate the provisions in previous legislation and extends coverage to constables at SPSA and SCDEA. It also removes the requirement to pay out of police funds compensation and related costs arising from the personal liability of chief officers (or in Scotland, chief constables) for acts which are unlawful under the Act. Payments of compensation and related costs arising from the personal liability of chief officers (or in Scotland, chief constables) will instead be dealt with by the Police Act 1996 and the Police (Scotland) Act 1967, as for all other police officers.

Example

- A chief officer refuses to allocate protective equipment to female constables. The chief officer would be treated as the employer in a direct discrimination claim.

Section 43***: Interpretation***

Effect

154. This section explains what is meant by terms such as “chief officer” and “relevant Act” used in section 42.

Background

155. This section replaces similar provisions in previous legislation, but includes some additional terms, such as those relevant to the SPSA and SCDEA.

Section 44***: Partnerships***

Effect

156. This section makes it unlawful for firms (and those intending to set up a firm) to discriminate against, harass or victimise their partners, or people seeking to be partners in the firm. Activities covered by these provisions could include the offering of partnerships or giving existing partners access to opportunities such as training and/or transfers to other branches of the firm. It imposes on firms and people setting up firms a duty to make reasonable adjustments for disabled partners and prospective partners.

157. In the case of limited partnerships, these prohibitions only apply in relation to those partners who are involved with the operation of the firm (general partners).

Background

158. Because partners are mainly governed by their partnership agreements, rather than by employment contracts, separate provisions are needed to provide protection from discrimination, harassment and victimisation for partners in ordinary and limited partnerships. This section is designed to replicate the effect of provisions in previous legislation but also to provide consistent protection in respect of race (whereas previously the protection of colour and nationality differed in some respects from that of race and ethnic or national origin).

Example

- A firm refuses to accept an application for partnership from a black candidate, who is qualified to join, because he is of African origin. This would be direct discrimination.

Section 45***: Limited liability partnerships***

Effect

159. This section makes it unlawful for a limited liability partnership (LLP), or a group of people setting up an LLP, to discriminate against, harass or victimise a member (or prospective member). Activities covered by these provisions include offers of membership or access to opportunities that the LLP makes available to its members. It imposes on LLPs a duty to make reasonable adjustments for disabled members and prospective members.

Background

160. LLPs are distinct from general and limited partnerships, so separate provisions are needed to provide protection from discrimination, harassment and victimisation for their members. This section is designed to replicate the effect of provisions in previous legislation but also to achieve the same consistency in respect of race as is provided in section 44.

Examples

- An LLP refuses a member access to use of a company car because he has supported a discrimination or harassment claim against the LLP. This would be victimisation.
- An LLP refuses a Muslim member access to its child care scheme because all the other children who attend the scheme have Christian parents. This would be direct discrimination.

Section 46***: Interpretation***

Effect

161. This section explains what is meant by terms used in sections 44 and 45. As well as defining the types of partnership to which these provisions apply, it establishes what is meant by expulsion from a partnership.

Example

- A gay partner in a firm who, because of constant homophobic banter feels compelled to leave his position as a partner, can claim to have been expelled from the partnership because of his sexual orientation. Should an employment tribunal agree with him, the firm could be found to be in breach of these provisions in a similar way to how the employment tribunal would find for an employee who wins a claim for constructive dismissal.

Section 47***: Barristers***

Effect

162. This section makes it unlawful for a barrister or a barrister's clerk to discriminate against, harass or victimise a pupil (a trainee barrister) or tenant (including a squatter or door-tenant) in the barristers' chambers, or people seeking to be a pupil or tenant, in relation to the professional relationship between them. It also imposes on barristers a duty to make reasonable adjustments for disabled pupils and tenants.

163. It also makes it unlawful for a person instructing a barrister (for example, a client or instructing solicitor) to discriminate against, harass or victimise a barrister in relation to the giving of instructions.

Background

164. This section replaces provisions in previous legislation providing similar protection for barristers, pupils, tenants and prospective pupils or tenants in barristers' chambers. However, it no longer protects clients and clerks from discrimination by barristers because they can respectively seek redress under the “services” provisions or under other work provisions (section 39 and section 41) of the Act.

Examples

- A barrister treats a female pupil less favourably than his male pupils by allowing her to be involved in a narrower range of cases, because of assumptions about the kind of cases women can handle competently. This would be direct discrimination.
- A clerk gives instructions to a Christian barrister in his chambers in preference to a Hindu barrister, because he fears that the barrister's religion would prevent him representing a Christian client properly. This would be direct discrimination.

Section 48***: Advocates***

Effect

165. This section makes it unlawful for practising advocates and their clerks to discriminate against, harass or victimise devils (trainee advocates) or members of the stable (a group of advocates working in shared premises) or people seeking to be a devil or member, in respect of the professional relationship between them. It imposes on advocates a duty to make reasonable adjustments for disabled devils and stable members.

166. It also makes it unlawful for a person instructing an advocate (for example, a direct access client or instructing solicitor) to discriminate against, harass or victimise an advocate in relation to the giving of instructions.

Background

167. This section replaces similar provisions in previous legislation. However, as with the section on barristers, this section no longer protects clients and clerks from discrimination by advocates because they can respectively seek redress under the “services” provisions or under other work provisions (section 39 and section 41) of the Act.

Examples

- An advocate treats one devil less favourably than another by refusing to allow him to be involved in a particular case because he fears the devil's sexual orientation may affect his involvement in the case. This would be direct discrimination.
- An advocate puts pressure on a stable member to leave because the member is disabled and the advocate does not want to make reasonable adjustments. This would be direct discrimination.

Section 49***: Personal offices: appointments, etc.***

Effect

168. This section makes it unlawful to discriminate against, harass or victimise people who are or wish to become personal office-holders. These provisions apply in so far as other work provisions do not — this means that where office-holders are also employees, they will be protected by the provisions dealing with employment in respect of their employment relationship. In respect of sex or pregnancy and maternity discrimination, a term of an offer of an appointment to office which relates to pay is treated as discriminatory where, if accepted, it would give rise to an equality clause or, if that is not the case, where the offer of the term constitutes direct or dual discrimination.

169. Personal office-holders are people who perform a function personally at a time and place specified by another person and who, in return, are entitled to payment (other than expenses or compensation for lost income). Section 52(4) provides that, where a personal office is a public office at the same time, it is to be treated as a public office only.

170. An office-holder can be appointed by one person and then an entirely different person can be responsible for other matters, for example for providing facilities for the office-holder to perform his or her functions. Because of this, the section prohibits both the person who makes the appointment and any relevant person from discriminating against, victimising or harassing the office-holder. The relevant person is the person who is responsible for the act complained of in each case.

171. This section places a duty to make reasonable adjustments on a person who makes the appointment and any relevant person in relation to the needs of disabled people who seek or hold personal offices.

Background

172. This section is designed to replicate the effect of provisions in previous legislation.

Examples

- A company board refuses to appoint a candidate as director because she is black. This would be direct discrimination.
- A company terminates the appointment of a director because it is discovered that she is pregnant. This would be direct discrimination.

Section 50***: Public offices: appointments, etc.***

Effect

173. This section makes it unlawful to discriminate against, harass or victimise people who are or wish to become public office-holders. Like the personal officeholder provisions above, these provisions apply in so far as other work provisions do not. This means that where public office-holders are also employees, they will be protected by the provisions dealing with employment in respect of their employment relationship. In respect of sex or pregnancy and maternity discrimination, a term of an offer of an appointment to office which relates to pay is treated as discriminatory where, if accepted, it would give rise to an equality clause or if that is not the case where the offer of the term constitutes direct or dual discrimination.

174. Public office-holders are people appointed by, on the recommendation of, or with the approval of, a member of the executive branch of Government, such as a Government Minister, or people who are appointed on the recommendation, or subject to the approval of, either of the Houses of Parliament, the National Assembly for Wales, or the Scottish Parliament.

175. A public office-holder can be appointed by one person and then an entirely different person can be responsible for other matters, for example for providing facilities for the office-holder to perform his or her functions. Because of this, the section prohibits both the person with the power to make the appointment and any relevant person from discriminating against, victimising or harassing the officeholder. The relevant person is the person who is responsible for the act complained of in each case (but does not include either of the Houses of Parliament, the National Assembly for Wales or the Scottish Parliament).

176. This section also places on the person who has the power to make an appointment and any relevant person a duty to make reasonable adjustments for disabled people seeking or holding public offices.

Background

177. This section is for the most part designed to replicate the effect of provisions in previous legislation. It also extends protection from discrimination, harassment and victimisation to those appointed on the recommendation or approval of law-making bodies such as the Scottish Parliament and the Welsh Assembly.

Example

- A Government Minister with the power to appoint the non-executive board members of a non-departmental public body fails to appoint a candidate because he is gay. This would be direct discrimination.

Section 51***: Public offices: recommendations for appointments, etc.***

Effect

178. This section makes it unlawful for a person with power to make recommendations about or approve appointments to public offices to discriminate against, harass or victimise people seeking or being considered as public officeholders in respect of the recommendation or approval process. It also imposes a duty on the person with the power to make a recommendation or approve an appointment to make reasonable adjustments for disabled people who seek or are being considered for appointment to public offices.

179. This section does not apply in respect of all public offices, only those to which the appointment is made on the recommendation or approval of a member of the executive or where the appointment is made by a member of the executive on the recommendation or approval of a relevant body (for example, a non-departmental public body).

Background

180. This section is for the most part designed to replicate the effect of provisions in current legislation. It also extends protection from discrimination, harassment and victimisation to those appointed by a member of the executive on the recommendation or with the approval of a non-departmental public body (in respect of that appointment or recommendation).

Example

- It would be direct discrimination for the Government Minister responsible for approving the appointment of members of the BBC Trust to refuse to approve the appointment of a person because he has a hearing impairment.

Section 52***: Interpretation and exceptions***

Effect

181. This section explains the meaning of various terms, such as “relevant person”, used in sections 49, 50 and 51. It provides that appointment does not include election, meaning elected offices will not constitute personal or public offices for the purpose of these sections.

182. It also stipulates that termination of an appointment includes the expiration of the appointment period or where unreasonable conduct of the relevant person causes the office-holder to terminate the appointment. But it does not count as termination if after expiry of the appointment the person's appointment is immediately renewed on the same terms.

Section 53***: Qualifications bodies***

Effect

183. This section makes it unlawful for a qualifications body (as defined in section 54) to discriminate against, harass or victimise a person when conferring relevant qualifications (which includes renewing or extending a relevant qualification). It provides that applying a competence standard to a disabled person is not disability discrimination, provided the application of the standard is justified. It also imposes a duty on qualifications bodies to make reasonable adjustments for disabled people.

Background

184. This section replaces similar provisions in previous legislation. It also extends the protection to cover discrimination in the arrangements made for determining upon whom a relevant qualification should be conferred.

Examples

- A body which confers diplomas certifying that people are qualified electricians refuses to confer the qualification on a man simply because he is gay. This would be direct discrimination.
- An organisation which maintains a register of professional tradespeople refuses to include a person's details on the register because her name does not sound English. This would be direct discrimination.

Section 54***: Interpretation***

Effect

185. This section explains the meaning of various terms used in section 53. In particular, it defines a qualifications body as a body which can confer any academic, medical, technical or other standard which is required to carry out a particular trade or profession, or which better enables a person to do so by, for example, determining whether the person has a particular level of competence or ability.

186. It also makes clear that bodies such as schools, institutions of further and higher education and education authorities which confer qualifications such as A Levels and GCSEs are not qualifications bodies for the purposes of section 53.

Background

187. This section is designed to replicate the effect of similar provisions in previous legislation.

Example

- Examples of qualifications bodies are the Public Carriage Office (which licenses cab drivers in London), the British Horseracing Authority and the General Medical Council.

Also included is any body which confers a diploma on people pursuing a particular trade (for example, plumbers), even if the diploma is not strictly necessary to pursue a career in that trade but shows that the person has reached a certain standard.

Section 55***: Employment service-providers***

Effect

188. This section makes it unlawful to discriminate against, harass or victimise a person when providing an employment service. It also places a duty on providers of employment services to make reasonable adjustments for disabled people. The duty is an anticipatory duty except for providers of a vocational service, so that in relation to the provision of vocational services, employment service-providers do not need to deal in advance with reasonable adjustments for disabled people. Employment services and vocational services are defined in section 56.

Background

189. This section replaces the separate provisions for vocational training, employment agencies and assisting persons to obtain employment in previous legislation with a single provision covering all these aspects.

Examples

- A company which provides courses to train people to be plumbers refuses to enrol women because its directors assume that very few people want to employ female plumbers. This would be direct discrimination.
- An agency which finds employment opportunities for teachers in schools offers placements only to white teachers based on the assumption that this is what parents in a particular area would prefer. This would be direct discrimination.
- An agency advertises job vacancies on its website. It will need to have the website checked for accessibility and make reasonable changes to enable disabled people using a variety of access software to use it.

Section 56***: Interpretation***

Effect

190. This section explains what the provision of an employment service includes (such as the provision of training for employment or careers guidance), and what it does not include (such as education in schools), for the purposes of section 55.

Example

- Examples of the types of activities covered under this section include providing CV writing classes, English or Maths classes to help adults into work; training in IT/keyboard skills; or providing work placements.

Section 57***: Trade organisations***

Effect

191. This section makes it unlawful for a trade organisation to discriminate against, harass or victimise a person who is, or is applying to be, a member. It also requires trade organisations to make reasonable adjustments for disabled people.

192. A trade organisation is an organisation of workers (such as a trade union) or employers (such as the Chambers of Commerce); or an organisation whose members carry out a particular trade or

profession (such as the British Medical Association, the Institute of Civil Engineers and the Law Society).

Background

193. This section is designed to replicate the effect of similar provisions in previous legislation. It also extends the protection to cover discrimination in the arrangements made for determining to whom membership should be offered.

Examples

- A trade union restricts its membership to men. This would be direct discrimination.
- An organisation of employers varies membership subscriptions or access to conferences because of a person's race. This would be direct discrimination.

Section 58***: Official business of members***

Effect

194. This section makes it unlawful for local authorities to discriminate against, harass or victimise their members in relation to providing access to facilities such as training which relate to the carrying out of their official business. This does not apply to election or appointment to posts within the local authority. It imposes a duty on local authorities to make reasonable adjustments for disabled members.

Background

195. This section extends protection previously in the Disability Discrimination Act 1995 to all protected characteristics.

Example

- A local authority does not equip meeting rooms with hearing loops for a member who has a hearing impairment, in order to enable her to take full part in the business for which she has been elected. This would be discrimination if provision of hearing loops were considered to be a reasonable adjustment.

Section 59***: Interpretation***

Effect

196. This section explains the meaning of various terms used in section 58. In particular, it lists the various bodies which are included in the term “local authority” and provides a power for a Minister of the Crown to add to this list of bodies. It also explains what is meant by reference to the carrying-out of official business by members of a local authority.

Example

- A local authority member who is considering an application for planning permission while sitting on a council's Planning Committee would be undertaking “official business”.

Section 60***: Enquiries about disability and health***

Effect

197. Except in the situations specified in this section, an employer must not ask about a job applicant's health until that person has been either offered a job (on a conditional or unconditional basis) or been included in a pool of successful candidates to be offered a job when a suitable position arises. The specified situations where health-related enquiries can be made are for the purposes of:

• finding out whether a job applicant would be able to participate in an assessment to test his or her suitability for the work;
• making reasonable adjustments to enable the disabled person to participate in the recruitment process;
• finding out whether a job applicant would be able to undertake a function that is intrinsic to the job, with reasonable adjustments in place as required;
• monitoring diversity in applications for jobs;
• supporting positive action in employment for disabled people; and
• enabling an employer to identify suitable candidates for a job where there is an occupational requirement for the person to be disabled.

198. The section also allows questions to be asked where they are needed in the context of national security vetting.

199. Where an employer makes a health or disability-related enquiry which falls outside the specified situations, he or she would be acting unlawfully under the Equality Act 2006. Together with Schedule 26, this section gives the Equality and Human Rights Commission (EHRC) an enforcement role. (Section 120(8) ensures that only the EHRC can enforce a breach of this provision.). This means, for example, that the EHRC would be able to conduct an investigation if there was evidence that a large employer might be routinely asking prohibited questions when recruiting.

200. Where the employer asks a question not allowed by this section and rejects the applicant, if the applicant then makes a claim to the employment tribunal for direct disability discrimination, it will be for the employer to show that it had not discriminated against the candidate.

201. As well as applying to recruitment to employment, the section also applies to the other areas covered by Part 5 of the Act, such as contract work, business partnerships, office-holders, barristers and advocates.

Background

202. This is a new provision. The Disability Discrimination Act 1995 did not prevent an employer from making health- or disability- related enquiries of applicants for a job, although it did make it unlawful to use the result of such enquiries to discriminate against a candidate because of his or her disability. This provision will limit the making of enquiries and therefore help to tackle the disincentive effect that an employer making such enquiries can have on some disabled people making applications for work.

Examples

• Applicants are asked on an application form whether they have a disability that requires the employer to make a reasonable adjustment to the recruitment process. This is to allow, for example, people with a speech impairment more time for interview. This enquiry would be permitted.
• An applicant applies for a job in a warehouse, which requires the manual lifting and handling of heavy items. As manual handling is a function which is intrinsic to the job, the employer is permitted to ask the applicant questions about his health to establish whether he is able to do the job (with reasonable adjustments for a disabled applicant, if required). The employer would not be permitted to ask the applicant other health questions until he or she offered the candidate a job.

Chapter 2**: Occupational pension schemes**

Section 61***: Non-discrimination rule***

Effect

203. This section requires that every occupational pension scheme is to have a non-discrimination rule read into it. The rule prohibits “a responsible person” from discriminating against, harassing or victimising a member or a person who could become a member of the scheme.

204. A responsible person is a scheme trustee or manager, an employer, and the person responsible for appointing a person to a public office, where the office-holder can be a scheme member.

205. The rule does not apply to pension rights built up or benefits payable for periods of service before the commencement of this section. Periods of service prior to this date will be subject to the previous discrimination legislation.

206. Where there has been a breach of a non-discrimination rule, proceedings may be brought against the person responsible for the breach under Part 9 of the Act. The provisions in Part 9 do not prevent the investigation or determination of any matter in accordance with Part 10 of the Pension Schemes Act 1993 (investigations: the Pensions Ombudsman) by the Pensions Ombudsman as the Ombudsman's investigations are not legal proceedings.

207. Pension credit members are not protected from discrimination because their rights are derived from an order of the court, rather than directly from employment.

208. It would not be a breach of a non-discrimination rule if an employer or the trustees or managers maintain certain practices or make decisions in relation to age that are specified by order by Ministers.

209. The non-discrimination rule does not apply where an equality rule operates or would operate, but for the exceptions in Part 2 of Schedule 7.

Background

210. Occupational pension schemes were already required by previous legislation to have non-discrimination rules in respect of age, disability, religion or belief and sexual orientation. This provision establishes non-discrimination rules in respect of race, gender reassignment, marriage and civil partnership, and sex.

211.Exceptions to the non-discrimination rule in relation to age were set out in Schedule 2 to the Employment Equality (Age) Regulations 2006 (SI 2006/1031).

Example

- A disabled person is refused membership of an occupational pension scheme because the trustees believe it is not in her best interest to join. This is because she has a short life expectancy and is unlikely to build up a reasonable pension. Although the trustees believe they are acting reasonably, they may be liable to challenge because they have breached the non-discrimination rule.

Section 62***: Non-discrimination alterations***

Effect

212. This section gives trustees and managers of an occupational pension scheme the power, by resolution, to alter their scheme's rules to conform to the non-discrimination rule in section 61.

213. They may use the power if:

- they lack powers to alter the rules for that purpose, or
- procedures for altering the rules, including obtaining consent, are unduly complex or would take too long.

Background

214. This section is based on similar provisions which allowed trustees and managers to secure conformity with the non-discrimination rules in the Disability Discrimination Act 1995, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Age) Regulations 2006.

Example

• Changes to the scheme rules of a large scheme require consultation with all the members before they may be made. This is impracticable, particularly as some deferred members cannot be traced. Scheme trustees may make the necessary alteration to scheme rules relying on this power.

Section 63***: Communications***

Effect

215. This section applies to sections 61, 120, 126 and paragraph 19 of Schedule 8, in their application to communications, to a disabled person who is:

- entitled to the present payment of dependants' or survivors' benefits under an occupational pension scheme, or
- entitled to a pension derived from a divorce settlement (pension credit member).

Background

216. This section replaces provisions in the Disability Discrimination Act 1995.

Chapter 3**: Equality of terms**

Section 64***: Relevant types of work***

Effect

217. Chapter 3 of Part 5 of the Act contains provisions designed to achieve equality between men and women in pay and other terms of employment where the work of an employee and his or her comparator — a person of the opposite sex – is equal. It does so by providing for a sex equality clause to be read into the employee's contract of employment. This is designed to ensure parity of terms between the employee and his or her comparator. A similar provision — referred to as a sex equality rule — is implied into the terms of pension schemes.

218. This section explains that the sections mentioned which impose the equality clause and equality rule apply to employees, office-holders and, by virtue of subsection (3) of section 83, members of the armed forces, where one person's work is equal to the work of another.

Background

219. This is a new provision that is designed to clarify to whom the equality clause and equality rule provisions of the Act apply. It should be read together with section 79. The references to comparator (and its definition in section 79) clarify, but do not widen the choice of comparator available in previous legislation for the purpose of a claim for breach of an equality clause or rule. As was the case under previous law, a comparator has to be a real person and not a hypothetical

one. Section 64(2) is a new provision which is intended to ensure that the effect of pre-existing case law *Macarthy's Ltd v Smith (C 129/79; [1981] 1 All ER 111; [1980] ECR 1275)* is maintained: that a comparator need not be someone who is employed at the same time as the person making a claim under these provisions, but could be a predecessor in the job.

Examples

• A female employee can compare her work with that of a male colleague employed by the same employer.

• A male police officer can compare his work with that of a female police officer in the same force.

Section 65***: Equal work***

Effect

220. This section sets out when the work of two people, whose work is being compared, is taken to be equal so that an equality clause or equality rule can operate. For work to be equal, a claimant must establish that he or she is doing like work, work rated as equivalent or work of equal value to a comparator's work. The section also sets out the factors which determine whether a person's work is within one of these categories. The fact that a discriminatory job evaluation study has been carried out which gives different values to the work of men and women is not an obstacle to the operation of an equality clause if an evaluation that set the same values for men and women would have found the jobs to be of equal value.

Background

221. This section is designed to replicate the substance of definitions contained in the Equal Pay Act 1970.

Examples

• Male and female supermarket employees who perform similar tasks which require similar skills will be doing like work even though the men may lift heavier objects from time to time. This is because the differences are not of practical importance in relation to their terms of employment.

• A job evaluation study rated the jobs of women and their better paid male comparators as not equivalent. If the study had not given undue weight to the skills involved in the men's jobs, it would have rated the jobs as equivalent. An equality clause would operate in this situation.

Section 66***: Sex equality clause***

Effect

222. This section requires that a sex equality clause be read into the terms under which people are employed. The effect of this is that any term in the contract which is less favourable than that of the comparator of the opposite sex is modified so as to ensure that both have the same effect. Where the comparator benefits from a term which is not available to the employee, the effect of the sex equality clause is to include such a term in the employee's contract of employment.

223. A sex equality clause will operate similarly on the terms of a person who is an appointee to an office or a member of the armed forces, as it does in relation to an employee.

224. Subsection (3) is intended to ensure that the provisions relating to equality of terms at work and the provisions governing pension schemes in sections 67 and 68 operate effectively together

so that action can be taken against an employer as it could against a trustee, to ensure, for example that a defence that operates in relation to one, will operate in relation to the other.

225. Where a job evaluation study has rated the work of an employee and comparator as equivalent, the equality clause will give the employee the benefit of all of the comparator's terms, including those which have not been determined by the rating of the work.

Background

226. This section is designed to replicate the effect of definitions contained in the Equal Pay Act 1970.

Example

- A male employee's contract includes a term that he can use his employer's car for private purposes. His female comparator who does equal work does not benefit from this term. A sex equality clause will have the effect of including in her contract a term corresponding to that of her male comparator.

Section 67***: Sex equality rule***

Effect

227. This section requires that every occupational pension scheme is to have a sex equality rule read into it.

228. The rule requires that men and women are treated equally to comparable members of the opposite sex in relation both to the terms on which they are permitted to join the scheme, and to the terms on which they are treated once they have become scheme members.

229. The rule, insofar as it applies to the terms on which a person is treated once he or she has become a member of the scheme, does not apply to pensionable service before 17 May 1990. This was the date of the European Court's decision in *Barber v Guardian Royal Exchange Assurance Group (C 262/88; [1991] 1 QB 344; [1990] ECR I-1889)*, which established that occupational pensions were pay for the purposes of what was Article 119 of the Treaty of Rome (now Article 157 of the Treaty on the Functioning of the European Union). Where the application of the rule relates to the terms on which a person becomes a member of the scheme, it has effect from 8 April 1976. This was the date of the judgment in *Defrenne v Sabena (C 43/75; [1981]1 All ER 122; [1976] ECR 455)*, where the Court, in holding that the principle of equal pay was directly effective, indicated that what was Article 119 of the Treaty of Rome should not be applied to periods of service prior to the judgment.

230. Where there has been a breach of a term modified by a sex equality rule, proceedings may be brought against the person responsible for the breach under Part 9 of the Act.

Background

231. The section replaces equivalent equal treatment provisions in section 62 of the Pensions Act 1995.

Example

- A scheme rule requires employees to work full time before they may join the scheme. There may be a breach of the equality rule because the scheme rule may have an adverse impact on female employees, who are less able to comply with the requirement to work full-time.

Section 68***: Sex equality rule: consequential alteration of schemes***

Effect

232. This section gives trustees and managers of an occupational pension scheme he power, by resolution, to alter scheme rules to conform to the sex equality rule in section 67.

233. They may use the power if:

- they lack the power to alter rules; or
- procedures for altering rules, including obtaining consent from another person (for example the employer), are unduly complex or would take too long.

234. In line with section 67, where the operation of an equality rule relates to the terms on which a person becomes a member of the scheme, any alteration made relying on this section may only have effect from 8 April 1976. Where the alteration relates to a term on which a member of the scheme is treated, reliance on this section may have effect only from 17 May 1990.

Background

235. The section replaces equivalent equal treatment provisions in section 65 of the Pensions Act 1995.

Example

- The scheme rules of a large scheme require consultation with all the members before an amendment to the rules may be made. This is impracticable, particularly as some deferred members cannot be traced. Scheme trustees may make the necessary alterations to scheme rules relying on this power.

Section 69***: Defence of material factor***

Effect

236. As a general rule, if the work of a worker and a comparator of the opposite sex is equal but their terms are not, the sex equality clause takes effect. Section 69 provides that neither a sex equality clause nor a sex equality rule will apply if the employer can show that the difference in terms is due to a material factor which is relevant and significant and does not directly or indirectly discriminate against the worker because of her sex.

237. If there is evidence that the factor which explains the difference in terms is not directly discriminatory but would have an adverse impact on people of her sex (that is, without more, it would be indirectly discriminatory), the employer must show that it is a proportionate means of meeting a legitimate aim or the sex equality clause will apply. For these purposes, the long-term objective of reducing pay inequality will always count as a legitimate aim.

238. Subsection (4) deals with the application of the material factor defence to occupational pension schemes.

Background

239. The Equal Pay Act 1970 and Pensions Act 1995 made similar provision permitting employers and trustees to objectively justify differences to which an equality clause or rule would otherwise apply. This section draws those separate provisions into one section and clarifies the way in which they are to be applied. The reference in the previous legislation to a difference being “genuinely” due to a material factor has not been repeated in this section since the adverb added nothing to the meaning of the requirement, which is that the employer's obligation is to show that the reason for

the difference is genuine and not a sham. The section incorporates the effect of EU law in respect of objective justification of indirectly discriminatory factors.

240. The reference to an employer's long-term objective of reducing pay inequality between men and women always being considered a legitimate aim is new.

Examples

• An employer introduces a bonus payment to encourage staff doing the same work to work a new night shift to maximise production. Only a small number of female staff can work at night and the bonus payments go almost entirely to male employees. Despite the disparate effect on the female employees, the employer's aim is legitimate and the payment of a bonus to night workers is a proportionate way of achieving it.

• A firm of accountants structures employees' pay on the basis of success in building relationships with clients (including at after-hours client functions). Because of domestic responsibilities, fewer women than men can maintain regular client contact and women's pay is much lower. The employer is unable to show the way it rewards client relationship building is proportionate, taking into account the disadvantage to women employees.

• In imposing a new pay structure which seeks to remove pay inequalities between men and women employees, and to accommodate the interests of all the various groups, an employer includes measures which seek to protect the pay of the higher paid group for a short period of time. The intention to remove pay inequalities is a legitimate aim, and the question will be whether the imposition of the particular temporary pay protection arrangements is a proportionate means of achieving it.

Section 70***: Exclusion of sex discrimination provisions***

Effect

241. This section ensures that the sex discrimination provisions of the Act do not apply where an equality clause or rule operates (or would operate in the absence of a defence of material factor or the exceptions set out in Part 2 of Schedule 7).

242. The sex discrimination provisions prohibit sex discrimination in relation to non-contractual pay and benefits such as promotion, transfer and training and in relation to offers of employment or appointment.

243. The equality of terms provisions operate only in relation to the terms of a contract of employment, the terms of appointment to a personal or public office and the terms of service of members of the armed forces.

Background

244. This provision brings together sex discrimination and equality of terms provisions previously found in the Equal Pay Act 1970 and the Sex Discrimination Act 1975 and explains how they work together.

Example

• A female sales manager is entitled under her contract to a bonus every year in proportion to the number of sales her team achieves. She discovers that a male sales manager for the same firm doing the same job has a contract which includes a larger bonus payment in relation to the same number of sales. Her claim will be dealt with under the equality clause provisions.

Section 71***: Sex discrimination in relation to contractual pay***

Effect

245. This section deals with sex discrimination in relation to contractual pay in circumstances where a sex equality clause would not operate. This could be because there is no comparator doing equal work with whom a claimant can compare his or her pay or other terms. The section ensures that indirect sex discrimination in respect of contractual pay can be challenged only by means of an equality clause. However, the section for the first time enables a person who is treated less favourably than others by being paid less because of the person's sex or a combination of two protected characteristics including sex to pursue a claim for direct or dual discrimination where an equality clause does not operate.

Background

246. The section replaces similar provision in the Sex Discrimination Act 1975 which ensured that the sole remedy in respect of claims made about sex discrimination in contractual pay matters was obtained through the Equal Pay Act 1970. This required that the comparator be a real person. This section however contains a new provision designed to allow claims to be brought where a person can show evidence of direct sex discrimination or dual discrimination (where sex is one of the protected characteristics in the combination) in relation to contractual pay but is unable to gain the benefit of a sex equality clause due to the absence of a comparator doing equal work.

Example

- An employer tells a female employee “I would pay you more if you were a man” or tells a black female employee “I would pay you more if you were a white man”. In the absence of any male comparator the woman cannot bring a claim for breach of an equality clause but she can bring a claim of direct sex discrimination or dual discrimination (combining sex and race) against the employer.

Section 72***: Relevant types of work***

Effect

247. This section sets out the types of work that are covered by the provisions for pregnancy and maternity equality set out in the sections which follow.

Background

248. This section replaces various provisions in the Equal Pay Act 1970, which set out who is covered by the pregnancy and maternity equality requirements.

Section 73***: Maternity equality clause***

Effect

249. This section requires that a woman's contract must be read as including a maternity equality clause. Section 74 sets out how a maternity equality clause modifies a woman's pay. No comparator is required in these cases.

250. A maternity equality clause is capable of affecting the terms of an occupational pension scheme but only in the way a maternity equality rule (as described in section 75) would. This ensures that the provisions relating to pregnancy and maternity equality of terms at work and the provision governing pension schemes in section 75 operate effectively together.

Background

251. This section reflects provisions of the Equal Pay Act 1970.

Section 74***: Maternity equality clause: pay***

Effect

252. This section sets out how and when a maternity equality clause affects a woman's pay while she is on maternity leave.

253. Firstly, the maternity equality clause is designed to ensure that any pay increase a woman receives (or would have received if she had not been on maternity leave) is taken into account in the calculation of her maternity-related pay where her terms do not already provide for this.

254. Secondly, a maternity equality clause will operate to ensure that pay, including any bonus, is paid to the woman at the time she would have received it if she had not been on maternity leave.

255. Thirdly, a maternity equality clause will provide for a woman's pay on her return to work following maternity leave to take account of any pay increase which she would have received if she had not been on statutory maternity leave.

Background

256. This section is designed to replicate the effect of provisions previously in the Equal Pay Act 1970.

Examples

- Early in her maternity leave, a woman receiving maternity-related pay becomes entitled to an increase of pay. If her terms of employment do not already provide for the increase to be reflected in her maternity-related pay, the employer must recalculate her maternity pay to take account of the increment.
- A woman becomes entitled to a contractual bonus for work she undertook before she went on maternity leave. The employer cannot delay payment of the bonus and must pay it to her when it would have been paid had she not been on maternity leave.

Section 75***: Maternity equality rule***

Effect

257. This section introduces a maternity equality rule into all occupational pension schemes.

258. The effect of the rule is that any period when a woman is on maternity leave should be treated as time when she is not, in particular in relation to any rule of an occupational pension scheme which can be applied in respect of:

- scheme membership,
- accrual of scheme rights, and
- determination of benefits.

259. The section makes similar provision in relation to any discretion under scheme rules which can be exercised in a way that treats a period of maternity leave differently from time when a woman is not on maternity leave.

260. The woman's contributions to the scheme during maternity leave need be determined only by reference to the amount she is paid during maternity leave.

261. The provisions of the section apply only to women on unpaid ordinary maternity leave where the expected week of confinement began on or after 6 April 2003.

262. The provisions of the section apply only to a woman on unpaid additional maternity leave where the expected week of confinement began on or after 5 October 2008 and they do not apply to the accrual of scheme rights.

263. Where there has been a breach of a term modified by a maternity equality rule, proceedings may be brought against the person responsible for the breach under Part 9 of the Act.

Background

264. This section replaces the previous provisions on "unfair maternity provisions" in paragraph 5 of Schedule 5 to the Social Security Act 1989 and replicates aspects of Regulations 9 and 18A of the Maternity and Parental Leave etc Regulations 1999.

Examples

- A woman who is on maternity leave will be entitled to continuing membership of the scheme throughout the period of maternity leave whether or not she is paid.
- A woman who is paid whilst on maternity leave will be entitled to accrue rights in a scheme as though she were paid her usual salary but she will only be required to make contributions based on her actual pay.

Section 76***: Exclusion of pregnancy and maternity discrimination provisions***

Effect

265. This section provides that the pregnancy and maternity discrimination provisions of the Act do not apply where a maternity clause or rule operates.

266. The maternity discrimination provisions prohibit discrimination in relation to non-contractual pay and benefits such as promotion, transfer and training and in relation to offers of employment or appointment.

267. The maternity equality clause provisions operate only in relation to terms of a contract of employment, the terms of appointment to a personal or public office and the terms of service of members of the armed forces and do so by including an equality clause to modify terms governing maternity-related pay.

Background

268. This provision explains the relationship between the two sets of provisions and is intended to ensure that they provide seamless protection against pregnancy and maternity-related inequality.

Example

- A woman who is in line for promotion tells her employer that she is pregnant. The employer tells the woman he will not promote her because she is likely to be absent on maternity leave during a very busy period. This will be direct pregnancy discrimination.

Section 77***: Discussions about pay***

Effect

269. This section is designed to make unenforceable terms of employment, appointment or service that prevent or restrict people from disclosing or seeking to disclose their pay to others, or terms that seek to prevent people from asking colleagues about their pay, where the purpose of any disclosure is to find out whether there is a connection between any difference in pay and a protected characteristic. Any action taken against an employee by the employer as a result of conduct protected

by this section is treated as victimisation within the meaning of section 27, as applied in the sections listed in the table in subsection (5).

270. Generally, discussions about pay would take place between colleagues, but this section makes it clear that protection extends more widely so as to include,; for example;, disclosures made to a trade union official or anyone else, provided that it is made with a view to finding out whether any pay differences may be connected with a protected characteristic.

Background

271. This section is new. It is intended to ensure that there is greater transparency and dialogue within workplaces about pay.

Examples

- A female employee thinks she is underpaid compared with a male colleague. She asks him what he is paid, and he tells her. The employer takes disciplinary action against the man as a result. The man can bring a claim for victimisation against the employer for disciplining him.
- A female employee who discloses her pay to one of her employer's competitors with a view to getting a better offer could be in breach of a confidentiality clause in her contract. The employer could take action against her in relation to that breach.

Section 78***: Gender pay gap information***

Effect

272. This section enables a Minister of the Crown to make regulations requiring private and voluntary sector employers with at least 250 employees in Great Britain to publish information about the differences in pay between their male and female employees. The regulations may specify, among other things, the form and timing of the publication, which will be no more frequently than annually. The regulations may also specify penalties for non-compliance. Employers who do not comply with the publication requirements could face civil enforcement procedures or be liable for a criminal offence, punishable by a fine of up to £5,000.

Background

273. This is a new provision. The Government wants larger private and voluntary sector employers in Great Britain to publish information on what they pay their male and female employees, so that their gender pay gap (the size of the difference between men and women's pay expressed as a percentage) is in the public domain.

274. The Government's aim is for employers regularly to publish such information on a voluntary basis. To give voluntary arrangements time to work, the Government does not intend to make regulations under this power before April 2013. The power would then be used only if sufficient progress on reporting had not been made by that time.

Section 79***: Comparators***

Effect

275. This section sets out the circumstances in which employees and others are taken to be comparators for the purposes of Chapter 3. A person who claims the benefit of a sex equality clause or sex equality rule must be able to show that his or her work is equal to that of the chosen comparator. The application of Article 157 of the Treaty on the Functioning of the European Union, which has direct effect, will ensure that existing case law on the breadth of possible comparisons

is carried forward, so that, for example, in relevant circumstances the concept of a comparator will include a predecessor doing the same job.

276. If two persons share the same employer and work at the same establishment, each may be a comparator for the other.

277. If two persons work at different establishments but share the same employer and common terms and conditions of employment apply, each may be a comparator for the other.

278. A person can also be a comparator for another in either of the above circumstances if one is employed by a company associated with the other's employer. Subsection (9) defines when employers are taken to be associated.

279. A person holding a personal or public office may be a comparator for another person holding a personal or public office if the same person is responsible for paying both of them.

280. A person holding the office of constable is treated for the purposes of Chapter 3 as holding a personal office for the purpose of determining who can be that person's comparator.

281. The section also defines when staff of the Houses of Parliament may be taken to be each other's comparators.

Background

282. These provisions generally reflect the effect of provisions in previous legislation.

Example

- A woman is employed by a company at a factory. A man works for the same company at another factory. Common terms of employment apply at both establishments. The woman may treat the man as a comparator, if they are doing equal work (as defined in section 65).

Section 80***: Interpretation and exceptions***

Effect

283. This section explains the meaning of terms used in Chapter 3 of Part 5 of the Act. It also gives effect to Schedule 7, which sets out exceptions to the equality of terms provisions.

Chapter 4**: Supplementary**

Section 81***: Ships and hovercraft***

Effect

284. This section provides that the employment provisions in Part 5 will apply to seafarers and the crew of hovercraft only in the way set out in regulations made by a Minister of the Crown.

Background

285. The Act is silent on the territorial application of the employment provisions. While this approach is acceptable for most workers, who at any given time are within either the territory of the United Kingdom or some other territory, seafarers work on ships that may be constantly moving between waters under the jurisdiction of different States. This section will allow the Minister to say how and when the employment provisions apply to seafarers on ships and crew on hovercraft in accordance with international law and custom and the global practices of the shipping industry. The Minister may make provision with regard to ships outside Great Britain.

286. This section replaces provisions in previous legislation concerning its application to seafarers.

Section 82***: Offshore work***

Effect

287. This section contains a power to make an Order in Council in relation to work on board offshore installations. The power may be used to apply Part 5 (with or without modification) to those working on such installations. The power may also be used in relation to any corresponding Northern Ireland legislation (with or without modification).

Background

288. This section will enable protection to be extended to workers on offshore installations, such as oil and gas rigs and renewable energy installations (generally wind farms), to reflect the extent of previous discrimination legislation.

Example

- Offshore workers are typically workers (either employees, contract workers, partners, members of an LLP, or personal or public office-holders) on oil and gas rigs located in the sea within the area of the United Kingdom Continental Shelf (UKCS), and on renewable energy installations (generally wind farms) within the part of the UKCS known as the Renewable Energy Zone.

Section 83***: Interpretation and exceptions***

Effect

289. This section explains the meaning of various terms used in Part 5 of the Act. In particular, it defines what is meant by "employment" and provides that people serving in the armed forces and people who work for the Crown and in the Houses of Commons and Lords are to be regarded as employed for the purposes of this Part of the Act.

PART 6**: EDUCATION**

Chapter 1**: Schools**

Section 84***: Application of this Chapter***

Effect

290. This section provides that this Chapter of the Act, which prohibits discrimination, harassment and victimisation in the field of education in schools, does not apply to discrimination or harassment of people in those circumstances because of age or marriage and civil partnership.

Background

291. This replicates the position in previous legislation and in, addition, extends protection because of gender reassignment and pregnancy and maternity to pupils in schools.

Examples

- It is not unlawful discrimination for a school to organise a trip for pupils in one year group, but not for pupils in other years.
- It is not unlawful discrimination for a school to allow older pupils to have privileges for which younger pupils are not eligible, such as more choice of uniform or the right to leave school during the lunch period.

Section 85***: Pupils: admission and treatment, etc.***

Effect

292. This section makes it unlawful for the responsible body of a school to discriminate against, harass or victimise a pupil or prospective pupil in relation to the terms on which it offers him or her admission, by not admitting him or her, or in the way it treats the pupil once admitted. The responsible body for a maintained school is the local authority or the governing body, and for an independent educational institution or a non-maintained special school is the proprietor.

293. It also imposes on the responsible body of a school the duty to make reasonable adjustments for disabled pupils and prospective disabled pupils.

294. However, the prohibition on harassment of pupils or prospective pupils does not cover gender reassignment, sexual orientation or religion or belief.

Background

295. This section is primarily designed to replicate the effect of provisions in current legislation applying to schools. In addition, it extends protection from discrimination to transsexual pupils and pupils who become pregnant.

Examples

- A school refuses to let a gay pupil become a prefect because of his sexual orientation. This would be direct discrimination.
- A selective school imposes a higher standard for admission to applicants from an ethnic minority background, or to girls. This would be direct discrimination.
- A pupil alleges, in good faith, that his school has discriminated against him because of his religion (for example claiming that he is given worse marks than other pupils because he is Jewish), so the school punishes him by making him do a detention. This would be victimisation.
- A teacher ridicules a particular pupil in class because of his disability, or makes comments which have the result of making the girls in the class feel embarrassed and humiliated. This would be harassment.

Section 86***: Victimisation of pupils, etc. for conduct of parents, etc.***

Effect

296. This section protects children in schools from being victimised as a result of a protected act (such as making or supporting a complaint of discrimination) done by their parent or sibling. The aim is to prevent parents being discouraged from raising an issue of discrimination with a school because of worry that their child may suffer retaliation as a result.

297. Where a parent or sibling maliciously makes or supports an untrue complaint, the child is still protected from victimisation, as long as the child has acted in good faith. But, in common with the general approach to victimisation, where a child has acted in bad faith, he or she is not protected, even where a parent or sibling makes or supports an untrue complaint in good faith.

Background

298. This section is designed to replicate the effect of provisions in the Disability Discrimination Act 1995 and extend the protection to cover all characteristics protected under this Chapter.

Examples

- The parent of a pupil complains to the school that her daughter is suffering sex discrimination by not being allowed to participate in a metalwork class. The daughter is

protected from being treated less favourably by the school in any way because of this complaint.

• A pupil brings a case against his school claiming that he has suffered discrimination by a member of staff because of his sexual orientation. The pupil's younger brother, at the same school, is protected against any less favourable treatment by the school because of this case, even if it is later found that the older brother was not acting in good faith.

Section 87***: Application of certain powers under Education Act 1996***

Effect

299. This section enables the Secretary of State to give directions, using powers under the Education Act 1996, to require a maintained school or a non-maintained special school to comply with its duties under section 85. It enables the Secretary of State to require a school to stop a discriminatory practice or policy even if no complaint has been brought by an individual pupil or prospective pupil.

Background

300. Sections 496 and 497 of the Education Act 1996 empower the Secretary of State to give directions to local education authorities and to governing bodies of maintained schools to prevent them exercising their functions under the Education Acts unreasonably, or to require them to perform statutory duties where they are not doing so. This power has already been extended to require compliance with the law on sex discrimination, and this section extends those powers to all the protected characteristics covered by section 85.

Example

• The governing body of a school refuses as a matter of policy to let disabled pupils participate in school trips because of the extra risk management required. The Secretary of State could direct the governing body to change its policy so as to make reasonable adjustments to enable disabled pupils to participate.

Section 88***: Disabled pupils: accessibility***

Effect

301. This section introduces Schedule 10 which requires local authorities and schools to prepare and implement accessibility strategies and plans. These will increase disabled pupils' access to the curriculum and improve the physical environment and the provision of information. They are explained in more detail in the notes to that Schedule.

Section 89***: Interpretation and exceptions***

Effect

302. This section explains what is meant by terms used in this Chapter, such as “school” and “pupil”. It also makes it clear that the prohibitions in the Chapter do not apply to anything done in relation to the content of the school curriculum. This ensures that the Act does not inhibit the ability of schools to include a full range of issues, ideas and materials in their syllabus and to expose pupils to thoughts and ideas of all kinds. The way in which the curriculum is taught is, however, covered by the reference to education in section 85(2)(a), so as to ensure issues are taught in a way which does not subject pupils to discrimination. This section also gives effect to Schedule 11 which provides some exceptions to the provisions in this Chapter.

Background

303. This section is designed to replicate the effect of an exception relating to discrimination because of religion or belief in the Equality Act 2006, and extends it to other protected characteristics.

Examples

- A school curriculum includes teaching of evolution in science lessons. This would not be religious discrimination against a pupil whose religious beliefs include creationism.
- A school curriculum includes The Taming of the Shrew on the syllabus. This would not be discrimination against a girl.

Chapter 2**: Further and higher education**

Section 90***: Application of this Chapter***

Effect

304. This section provides that this Chapter of the Act, which prohibits discrimination, harassment and victimisation in the field of education in institutions providing further and higher education, does not make it unlawful to discriminate against or harass people in those circumstances because of marriage or civil partnership status.

Background

305. This section is designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Section 91***: Students: admission and treatment, etc.***

Effect

306. This section makes it unlawful for universities, colleges and other institutions in the higher and further education sectors to discriminate against, harass or victimise a student or someone who wants to become a student in relation to the arrangements it makes in deciding who to admit, the terms on which a person is admitted and the way a person is treated when admitted. Subsection (3) of section 91 specifically makes it unlawful to discriminate when considering conferring qualifications to disabled people who are not enrolled at the institution.

307. It also imposes on the responsible body of such an institution the duty to make reasonable adjustments for disabled students and prospective students.

Background

308. This replicates the position in previous legislation.

Examples

- A college refuses admission to a man who applies to be a student, because he is gay. This would be direct discrimination.
- A university refuses to provide residential accommodation to Jewish or Muslim students. This would be direct discrimination.
- A college puts an age limit on access to a particular course. This would be direct discrimination, unless the college could show that the age limit was objectively justified.

Section 92***: Further and higher education courses***

Effect

309. This section makes it unlawful for local authorities securing further and higher education, and maintained schools providing further education, to discriminate against, harass or victimise a person in relation to deciding who to enrol, or in the way it provides any services when the person has been enrolled. It also imposes on them the duty to make reasonable adjustments when offering such facilities and services to disabled people.

Background

310. This section is designed to replicate the effect of provisions in the Disability Discrimination Act 1995, and to extend protection to all the protected characteristics covered by this Chapter.

Example

- A school puts on a 10-week evening educational course for local adults but prevents applicants from enrolling who are disabled or gay. This would be direct discrimination.

Section 93***: Recreational or training facilities***

Effect

311. This section makes it unlawful for local authorities providing any recreational or training facilities to discriminate against, harass or victimise a person in terms of deciding who should be provided with any facilities and the terms on which the facilities are provided. It also imposes on them the duty to make reasonable adjustments when offering such facilities and services to disabled people.

312. The recreational and training facilities concerned are those provided in England under sections 507A or 507B of the Education Act 1996 and include things like centres, parks and sports facilities.

Background

313. These provisions are designed to replicate the effect of provisions in the Disability Discrimination Act 1995 and to extend protection to all the protected characteristics covered by this Chapter.

Example

- A local authority which puts on a summer camp for children from local schools refuses an application from a child simply because that child is disabled or a Muslim. This would be direct discrimination.

Section 94***: Interpretation and exceptions***

Effect

314. This section explains what is meant by terms used in this Chapter, such as “student” and “university”. It also makes it clear that the prohibitions in the Chapter do not apply to anything done in relation to the content of the curriculum. This ensures that the Act does not inhibit the ability of institutions in the higher and further education sectors to include a full range of issues, ideas and materials in their syllabus and to expose students to thoughts and ideas of all kinds. The way in which the curriculum is taught is, however, covered by the reference to education in section 91(2)(a), so as to ensure issues are taught in a way which does not subject students to discrimination or harassment.

315. It also gives effect to Schedule 12 which provides exceptions to the provisions in this Chapter.

Background

316. These provisions are new, but are based on an exception relating to discrimination because of religion or belief in education in schools in the Equality Act 2006, and explicitly extend it to education in higher and further education institutions across all the protected characteristics covered by this Chapter.

Examples

- A college course includes a module on feminism. This would not be discrimination against a male student.
- A university requires students to use a computer for projects or essays. This would not be indirect discrimination against a member of a sect which rejects the use of modern technology.

Chapter 3**: General qualifications bodies**

Section 95***: Application of this Chapter***

Effect

317. This section provides that this Chapter of the Act, which prohibits discrimination, harassment and victimisation by qualifications bodies, does not make it unlawful for such bodies to discriminate against or harass people in the circumstances covered because of marriage or civil partnership status.

Background

318. This section is designed to replicate the effect of similar provisions in previous legislation subject to modifications that include placing a responsibility on the appropriate regulator.

Section 96***: Qualifications bodies***

Effect

319. This section makes it unlawful for a qualifications body to discriminate against, harass or victimise a person in the arrangements it makes for deciding on whom to confer qualifications, and the terms on which those qualifications are conferred. Qualifications bodies are defined in section 97.

320. It also places a duty on qualifications bodies to make reasonable adjustments for disabled people. The section includes a power for a Minister of the Crown, the Secretary of State, Scottish Ministers and Welsh Ministers to designate an "appropriate regulator", which may then specify matters which are not subject to the reasonable adjustments duty. For example, it could be specified that the requirement to achieve a particular mark to gain a particular qualification is not subject to reasonable adjustments. The appropriate regulator may also specify which reasonable adjustments should not be made. For example, it may be appropriate to allow additional time to complete the exam or to provide a reader, but not to give an exemption from part of an exam. In doing so, the appropriate regulator must have regard to the need to minimise the extent to which disabled persons are disadvantaged, and the need to protect the integrity of, and maintain public confidence in the qualification. It is important that the disabled candidate knows that his or her qualification will be as highly regarded as other people's qualifications, and will not be regarded as inferior because reasonable adjustments have been made. Before specifying any such matter, the regulator must consult anyone it thinks appropriate and it must publish the specified matters.

Background

321. These provisions are designed to make similar provision to those in the Disability Discrimination Act 1995 and to extend protection to all the protected characteristics covered by this Chapter. There are some changes to the provisions concerning when reasonable adjustments do not need to be made for disabled candidates. Previously, awarding bodies were not required to make reasonable adjustments to a competence standard, but there was some confusion as to what was a competence standard in these qualifications. Under these provisions it is the regulator that will make the decision, after consultation, about what cannot be reasonably adjusted and — as noted in paragraph 320 above – will be under specific duties in making that decision. This will create more transparency and consistency in the application of reasonable adjustments.

Examples

- A qualifications body refuses to allow a girl to undertake a GCSE in woodwork because of her sex. This would be direct discrimination.
- A visually impaired candidate is granted a modified paper (enlarged font) by a qualifications body in order that she can read her English GCSE exam.
- The regulator publishes, after appropriate consultation, a requirement that qualifications bodies cannot make reasonable adjustments by granting an exemption from components of the qualification which exceed a specified percentage of the total marks.
- The regulator publishes, after appropriate consultation, a requirement on qualifications bodies not to use a specific reasonable adjustment, such as a reader in the independent reading element of a GCSE English exam. This would not be unlawful discrimination against a disabled candidate who would otherwise have been entitled to this specific adjustment.

Section 97***: Interpretation***

Effect

322. This section explains what is meant by terms used in section 96. It defines a qualifications body as an authority or body which awards a qualification, and sets out what it is not. It also defines a qualification as a certificate or authorisation of a set description.

Background

323. This section is designed to replicate the effect of provisions in previous legislation.

Examples

- Edexcel is an example of a qualifications body.
- A GCSE is an example of a qualification.

Chapter 4**: Miscellaneous**

Section 98***: Reasonable adjustments***

Effect

324. This section introduces the provisions of Schedule 13, concerning the making of reasonable adjustments to ensure that disabled pupils are not placed at a substantial disadvantage in comparison with non-disabled pupils. These provisions are explained in more detail in the notes to that Schedule.

Section 99***: Educational charities and endowments***

Effect

325. This section introduces the provisions of Schedule 14, concerning educational charities which restrict benefits to a single sex and providing for such restrictions to be modified.

PART 7**: ASSOCIATIONS**

Section 100***: Application of this Part***

Effect

326. This section provides that this Part of the Act, which prohibits discrimination, harassment and victimisation by associations, does not make it unlawful for an association to discriminate against or harass people because of marriage or civil partnership.

327. It also provides that, if an act of discrimination, harassment or victimisation is made unlawful by the Parts of the Act covering services and public functions, premises, work or education, then those provisions, rather than the provisions in this Part, apply.

Background

328. This section is designed to replicate the position in previous legislation.

Section 101***: Members and associates***

Effect

329. This section makes it unlawful for an association to discriminate against, harass or victimise an existing or potential member, or an associate. This means that an association cannot refuse membership to a potential member or grant it on less favourable terms because of a protected characteristic. It does not, however, prevent associations restricting their membership to people who share a protected characteristic (see Schedule 16). It also means that an association cannot, among other things, refuse an existing member or associate access to a benefit or deprive him or her of membership or rights as an associate respectively because of a protected characteristic covered by this Part.

Background

330. Previous legislation provided protection from discrimination, harassment and victimisation by associations against existing or potential members and associates because of race, disability and sexual orientation. This section is designed to replicate the effect of the provisions in previous legislation, and to extend protection to the characteristics of gender, age, religion or belief, pregnancy and maternity, and gender reassignment.

Examples

- A gentlemen's club refuses to accept a man's application for membership or charges him a higher subscription rate because he is Muslim. This would be direct discrimination.
- A private members' golf club, which has members of both sexes, requires its female members to play only on certain days while allowing male members to play at all times. This would be direct discrimination.

Section 102***: Guests***

Effect

331. This section makes it unlawful for an association to discriminate against, harass or victimise existing or potential guests. In particular, an association cannot refuse to invite a person as a guest because of a particular characteristic or invite that person on certain conditions which the association would not apply to other would-be guests. Equally, a guest cannot be refused access to a benefit or subjected to any other detriment simply because of a protected characteristic.

Background

332. Previous legislation provided protection to existing and potential guests of associations because of disability only. This section extends similar protection to all protected characteristics covered by this Part.

Example

• An association refuses to invite the disabled wife of a member to attend an annual dinner, which is open to all members' partners, simply because she is a wheelchair user. This would be direct discrimination.

Section 103: Sections 101 and 102***: further provision***

Effect

333. This section imposes on associations the duty to make reasonable adjustments for disabled members and guests.

334. This section also provides that the Act does not prohibit harassment of members, potential members, associates, guests and potential guests because of religion or belief or sexual orientation.

Section 104***: Selection of candidates***

Effect

335. This section allows registered political parties to make arrangements in relation to the selection of election candidates to address the under-representation of people with particular protected characteristics in elected bodies.

336. These arrangements can include single-sex shortlists for election candidates, but not shortlists restricted to people with other protected characteristics. With the exception of single-sex shortlists, arrangements made under this section must be a proportionate means of reducing under-representation.

337. This provision applies to the selection of candidates in relation to elections to Parliament, local government, the European Parliament, the Scottish Parliament and the National Assembly for Wales.

Background

338. For sex, the section replicates the effect of similar provisions contained in the Sex Discrimination Act 1975, as amended by the Sex Discrimination (Election Candidates) Act 2002, relating to the selection of candidates. For the other protected characteristics this section introduces new provisions allowing political parties to take action in their selection arrangements in order to address under-representation in elected bodies (apart from shortlists restricted to people with a particular protected characteristic) where this would be proportionate. This will, for instance, allow political parties to reserve places on relevant electoral shortlists for people with a specific protected characteristic such as race, disability etc.

Examples

• A political party can have a women-only shortlist of potential candidates to represent a particular constituency in Parliament, provided women remain under-represented in the party's Members of Parliament.

• A political party cannot shortlist only black or Asian candidates for a local government by-election. However, if Asians are under-represented amongst a party's elected councillors

on a particular Council, the party could choose to reserve a specific number of seats for Asian candidates on a by-election shortlist.

Section 105***: Time-limited provision***

Effect

339. This section is linked to the provisions in section 104 relating to the selection of candidates by registered political parties. It provides that the provision in section 104(7) which permits single-sex shortlists for election candidates in order to address under-representation in elected bodies will be repealed automatically at the end of 2030 unless an order is made by a Minister of the Crown to extend it beyond that date.

340. This section also extends the expiry date for the similar provisions in the Sex Discrimination (Election Candidates) Act 2002 until 2030, so far as they apply to Northern Ireland.

Background

341. The section replicates similar provisions in the Sex Discrimination (Election Candidates) Act 2002, but extends the expiry date for those provisions to 2030.

Section 106***: Information about diversity in range of candidates, etc.***

Effect

342. This section gives a Minister of the Crown power to make regulations requiring registered political parties to publish data relating to the diversity of party candidates seeking selection. The power to make regulations is subject to the affirmative resolution procedure. It can be used to prescribe, among other things, which political parties the duty to publish data will apply to, what data should be published, and when. The requirement to publish could apply to diversity data related to some or all of the protected characteristics of age, disability, gender reassignment, race, sex, sexual orientation and religion or belief. It will be for the Equality and Human Rights Commission to enforce the publication requirement, and the provision inserted into the Equality Act 2006 by paragraph 13 of Schedule 26 to the Act makes clear that it can use its existing powers to do so.

343. Candidates will be free to refuse to disclose any or all the information requested by the party. Data will be published in an anonymous form.

Background

344. This is a new provision which responds to a recommendation, made by the Speaker's Conference on parliamentary representation, that registered political parties be required to publish anonymised information on the diversity of their candidate selections, as a means of encouraging broader representation and increasing involvement of all groups in the democratic process.

Example

- Regulations might require political parties fielding more than a specified number of candidates to publish, six months after a general election, anonymised diversity data relating to gender and race of all candidates who stood at that election.

Section 107***: Interpretation and exceptions***

Effect

345. This section explains what is meant by terms used in Part 7 of the Act. It defines an association as a body with 25 or more members where access to membership is controlled by rules and involves

a genuine selection process based on personal criteria. It gives a Minister of the Crown power to amend this definition so as to change the number of members required by the definition.

346. It also provides that people who have any kind of membership of a particular association are protected by this Part, as are associates who are not members of an association but have many of the rights of members as a consequence of being a member of another association.

347. The exceptions which apply to this Part of the Act are contained in Schedule 16.

Background

348. The substance of the definition of an association remains unchanged from that which was used in the Race Relations Act 1976.

Examples

- Associations include: private members' golf clubs and gentlemen's clubs where applicants for membership are required to make a personal application, be sponsored by other members and go through some kind of selection process.
- Membership would cover full membership, associate membership, temporary membership and day membership.
- Casinos, nightclubs and gyms, where payment of the requisite “membership” fee is all that is required to secure admittance are not associations for the purposes of this Part. These are covered instead by the provisions in Part 3 concerning services provided to the public.
- A book club run by a group of friends which has no formal rules governing admittance or whose membership is less than 25 is not an association for the purposes of this Part.

PART 8**: PROHIBITED CONDUCT: ANCILLARY**

Section 108***: Relationships that have ended***

Effect

349. This section makes it unlawful to discriminate against or harass someone after a relationship covered by the Act has ended.

350. It covers any former relationship in which the Act prohibits one person from discriminating against or harassing another, such as in employment, or in the provision of goods, facilities and services. It is designed to ensure that treatment of the kind made unlawful by the Act which results from, and is closely linked to, the existence of a relationship is still unlawful even though the relationship no longer exists.

351. This provision applies to conduct which takes place after the Act is commenced, whether or not the relationship in question ended before that date. If the conduct occurred before this section was commenced, it would be dealt with under the previous legislation.

352. This section also requires reasonable adjustments to be made for disabled people even after a relationship has ended, if they continue to be at a substantial disadvantage in comparison with people without a disability. A person will be considered to have discriminated against a disabled person if he or she fails to comply with the duty to make reasonable adjustments.

353. A breach of this section triggers the same enforcement procedures as if the treatment had occurred during the relationship. However, if the treatment which is being challenged constitutes victimisation, it will be dealt with under the victimisation provisions and not under this section.

Background

354. This section replaces similar provisions in previous legislation. It also extends the protection after a relationship has ended to cover discrimination outside the workplace because of religion or belief and sexual orientation. It will provide similar protection against age discrimination and harassment outside the workplace when the age protection provisions are commenced.

Examples

• A school or employer refuses to give a reference to an ex-pupil or ex-employee because of his or her religion or belief. This would be direct discrimination.

• A builder or plumber addresses abusive and hostile remarks to a previous customer because of her sex after their business relationship has ended. This would be harassment. It would not be harassment, however, where the reason for the treatment was not the customer's sex but, for example, a dispute over payment.

• A disabled former employee's benefits include life-time use of the company's in-house gym facilities. The employer or owner of the premises must make reasonable adjustments to enable the former employee to continue using the facilities even after she has retired.

Section 109***: Liability of employers and principals***

Effect

355. This section makes employers and principals liable for acts of discrimination, harassment and victimisation carried out by their employees in the course of employment or by their agents acting under their authority. It does not matter whether or not the employer or principal knows about or approves of those acts.

356. However, employers who can show that they took all reasonable steps to prevent their employees from acting unlawfully will not be held liable.

357. Employers and principals cannot be held liable for any criminal offences under the Act that are committed by their employees or agents, except for those in the provisions on transport services for disabled people in Part 12 of the Act.

Background

358. This section replaces similar provisions in previous legislation. It is designed to ensure that employers and principals are made responsible for the acts of those over whom they have control. The section works together with the provisions on “Liability of employees and agents” (section 110), “Instructing, causing or inducing contraventions” (section 111), and “Aiding contraventions” (section 112) to ensure that both the person carrying out an unlawful act and any person on whose behalf he or she was acting can be held to account where appropriate.

Examples

• A landlord (the principal) instructs an agent to collect rent at a property. The agent harasses an Asian couple, who bring a claim in which the agent is held to have acted unlawfully. The principal may be held liable for breaching the harassment provisions even if he or she is unaware of the agent's actions.

• A shop owner becomes aware that her employee is refusing to serve disabled customers. The employer tells the employee to treat disabled customers in the same way as other customers and sends the employee on a diversity training course. However, the employee continues to treat disabled customers less favourably. One such customer brings a claim against both the employee and the employer. The employer may avoid liability by showing that she took all reasonable steps to stop the employee from acting in a discriminatory way.

Section 110***: Liability of employees and agents***

Effect

359. This section makes an employee personally liable for unlawful acts committed in the course of employment where, because of section 109, the employer is also liable – or would be but for the defence of having taken all reasonable steps to prevent the employee from doing the relevant thing. An agent would be personally liable under this section for any unlawful acts committed under a principal's authority. However, an employee or agent will not be liable if he or she has been told by the employer or principal that the act is lawful and he or she reasonably believes this to be true.

360. Subsections (4) and (5) make it an offence, punishable by a fine of (currently) up to £5,000, if an employer or principal knowingly or recklessly makes a false statement about the lawfulness of doing something under the Act.

361. This section does not apply to discriminatory acts done by an employee or agent because of disability in relation to schools, because claims for disability discrimination in schools cannot be enforced against individuals.

Background

362. This section incorporates some of the elements in the "Aiding unlawful acts" provisions in previous discrimination legislation. It takes a more direct approach and unlike the previous provisions it is not necessary to show that the employee or agent knew that the act was unlawful.

Examples

- A factory worker racially harasses her colleague. The factory owner would be liable for the worker's actions, but is able to show that he took all reasonable steps to stop the harassment. The colleague can still bring a claim against the factory worker in an employment tribunal.
- A principal instructs an agent to sell products on her behalf. The agent discriminates against a disabled customer. Both the principal and the agent are liable, but the courts are able to determine that evidence provided by the principal indicate the authority given to the agent did not extend to carrying out an authorised act in a discriminatory manner. The disabled customer can still bring a claim against the agent.

Section 111***: Instructing, causing or inducing contraventions***

Effect

363. This section makes it unlawful for a person to instruct, cause or induce someone to discriminate against, harass or victimise another person, or to attempt to do so.

364. It provides a remedy for both the recipient of the instruction and the intended victim, whether or not the instruction is carried out, provided the recipient or intended victim suffers a detriment as a result.

365. However, the section only applies where the person giving the instruction is in a relationship with the recipient of the instruction in which discrimination, harassment or victimisation is prohibited.

366. The Equality and Human Rights Commission can enforce this section using its statutory powers under the Equality Act 2006. Equally, both the recipient of the instruction and the intended victim can bring individual claims for breach of this section against the person giving the instructions, so long as they have suffered a detriment as a result. A claim brought by the recipient of the instruction will be dealt with in the same forum (employment tribunal or county courts) as a direct claim for

discrimination, harassment or victimisation against the person giving the instruction would be. A claim brought by the intended victim against the person giving the instruction will be dealt with in the same forum as a claim for discrimination, harassment or victimisation against the person carrying out the instruction would be.

Background

367. This section replaces provisions in previous legislation in relation to race, sex, gender reassignment, pregnancy and maternity, age (within the workplace) disability (within the workplace), religion or belief (outside the workplace) and sexual orientation (outside the workplace). It extends protection to all protected characteristics in all areas covered by the Act and allows the Equality and Human Rights Commission to bring enforcement proceedings in relation to any action in breach of the section. (Previously, the Equality and Human Rights Commission's enforcement powers were not uniform even between the protected characteristics and fields where there were provisions on instructions to discriminate.) The provision expressly allowing persons instructed to bring proceedings is new (other than in relation to age within the workplace where such provision already exists), and is designed to codify the current position in common law (see *Weathersfield v Sargent* [1999] IRLR 94). The provision expressly allowing the intended victim to bring proceedings, even where the instruction is not carried out, is also new and is designed to ensure greater clarity about the protection than under previous legislation.

Example

- A GP instructs his receptionist not to register anyone with an Asian name. The receptionist would have a claim against the GP if subjected to a detriment for not doing so. A potential patient would also have a claim against the GP if she discovered the instruction had been given and was put off applying to register. The receptionist's claim against the GP would be brought before the employment tribunal as it relates to employment, while the potential patient's claim would be brought in the county court as it relates to services.

Section 112***: Aiding contraventions***

Effect

368. This section makes it unlawful for a person to help someone carry out an act which he or she knows is unlawful under the Act. However, this is not unlawful if the person giving assistance has been told that the act is lawful and he or she reasonably believes this to be true.

369. It makes it an offence, punishable by a fine of (currently) up to £5,000, knowingly or recklessly to make a false statement about the lawfulness of doing something under the Act.

370. For the purposes of enforcement, breaches of the prohibition on aiding contraventions are dealt with under the same procedures in the Act as the contraventions themselves.

Background

371. This section is designed to replicate the effect of similar provisions in previous legislation. It ensures that a person who helps another to do something which he or she knows to be prohibited by the Act is liable in his or her own right. Taken together with the provisions on “Liability of employers and principals” (section 109), “Liability of employees and agents” (section 110) and “Instructing, causing or inducing contraventions” (section 111) this section is designed to ensure that both the person carrying out an unlawful act and any person on whose behalf or with whose help he or she was acting can be held to account where appropriate.

Example

• On finding out that a new tenant is gay, a landlord discriminates against him by refusing him access to certain facilities, claiming that they are not part of the tenancy agreement. Another tenant knows this to be false but joins in with the landlord in refusing the new tenant access to the facilities in question. The new tenant can bring a discrimination claim against both the landlord and the tenant who helped him.

PART 9**: ENFORCEMENT**

Chapter 1**: Introductory**

Section 113***: Proceedings***

Effect

372. This section applies the provisions of Part 9 to claims made under the Act. These claims must be brought either in a county court (sheriff court in Scotland) or in an employment tribunal. Sections 114 and 120 set out which claims should be brought in the civil courts and which in tribunals.

373. This section does not affect the enforcement powers of the Equality and Human Rights Commission which are in Part 1 of the Equality Act 2006. Nor does it prevent judicial review proceedings (or the equivalent in Scotland) or certain immigration proceedings related to compliance with the Act's provisions.

Background

374. This provision replaces similar provisions in the previous legislation.

Chapter 2**: Civil courts**

Section 114***: Jurisdiction***

Effect

375. This section sets out what types of claims under the Act a county court or (in Scotland) the sheriff court has jurisdiction to hear. These are claims related to provision of services, the exercise of public functions, disposal and management of premises, education (other than in relation to disability), and associations.

376. There is a presumption that a judge or sheriff will appoint an assessor to assist the court when hearing discrimination cases. However, an assessor need not be appointed where there are good reasons not to (for example, after an assessment of the judge's own level of experience, the nature of the case and the wishes of the claimant).

Background

377. This section is designed to replicate the effect of provisions in previous legislation. However, for the first time the Act enables disability discrimination in schools cases in Scotland to be heard in the Additional Support Needs Tribunals (Scotland) rather than the sheriff courts, where they were previously heard.

378. Previously, two assessors would sit with judges in cases involving race and sex discrimination only. This section extends the requirement to have assessors for cases of discrimination based on any protected characteristic, such as sexual orientation or religion or belief, but reduces the number of assessors used in each case to one.

Examples

• A woman has joined a golf club but because she is a woman she is allowed to play golf only on Tuesday afternoons and is not allowed access to the club bar. She could bring a discrimination claim in the county or (if the golf course is in Scotland) sheriff court.
• A gay man applies for residential housing in a local authority area, but is told that he can choose from only three housing blocks because all homosexual people are housed together. He could bring a discrimination claim in the county or sheriff court.

Section 115***: Immigration cases***

Effect

379. This section sets out which claims under the Act are outside the jurisdiction of the county or sheriff courts because they are being dealt with in immigration proceedings. These are claims in relation to decisions on whether a person may enter or remain in the UK and claims where the question of whether there has been a breach of Part 3 of the Act (dealing with services and public functions) has either been raised in immigration proceedings and rejected, or could be raised on appeal.

Background

380. This provision is designed to replicate the effect of provisions in previous legislation.

Section 116***: Education cases***

Effect

381. This section sets out which education-related claims under the Act are outside the jurisdiction of the county and sheriff courts. These are claims about discrimination because of disability in schools which should be brought instead in specialist tribunals (there is a separate tribunal for England and Wales and for Scotland).

Background

382. The position for England and Wales remains unchanged. As noted in relation to section 114, the Act for the first time enables disability discrimination in schools cases in Scotland to be heard in the Additional Support Needs Tribunals (Scotland) rather than the sheriff courts, where they were previously heard.

Section 117***: National security***

Effect

383. A county or sheriff court may need to take various steps during proceedings in order to safeguard national security. This section enables the Civil Procedure Rules Committee (for England and Wales) and the Sheriff Court Rules Council (for Scotland) to make rules of court to enable the court to exclude a claimant, representative or assessor from part or all of the proceedings; permit a claimant or representative who has been excluded to make a statement before the proceedings begin; and ensure that part or all of the reasons for a decision on the merits of the case are kept secret. Where the claimant or his or her representative is excluded from proceedings, a special advocate can be appointed to represent the claimant's interests.

Background

384. This provision is designed to replicate and extend powers in previous legislation. The previous powers applied in relation to some discrimination proceedings but not to those involving sexual orientation and age. This provision extends the power so that it applies across all the protected characteristics.

Section 118***: Time limits***

Effect

385. A person must bring a claim under the Act in the county and sheriff courts within six months of the alleged unlawful act taking place. If a person wants to make a claim after that period it is at the court's discretion whether it grants permission to allow this. The test applied by the court is what is “just and equitable” in the circumstances.

386. The exception to this rule is for claims which have been referred to a student complaints scheme within six months or to the Equality and Human Rights Commission for conciliation. In these instances the time limit for bringing a claim is increased to nine months. The six month period will only begin, in a claim involving a decision of an immigration body, when that body has ruled that there is a breach of Part 3 and that ruling can no longer be appealed.

387. Where the conduct in respect of which a claim under the Act might arise continues over a period of time, the time limit starts to run at the end of that period. Where it consists of a failure to do something, the time limit starts to run when the person decides not to do the thing in question. In the absence of evidence to the contrary, this is either when the person does something which conflicts with doing the act in question; or at the end of the time when it would have been reasonable for them to do the thing.

Background

388. This section is designed to replicate the effect of provisions in the previous legislation, except that the provision allowing a longer time limit in respect of complaints referred to the student complaints scheme and for conciliation by the Equality and Human Rights Commission is new.

Section 119***: Remedies***

Effect

389. This section gives powers to county and sheriff courts hearing claims under the Act to grant any remedy that the High Court or Court of Session in Scotland can grant in proceedings in tort or in a claim for judicial review. The main remedies available are damages (including compensation for injuries to feelings), an injunction and a declaration. In cases based on indirect discrimination, if the respondent proves that he or she did not intend to treat the claimant unfavourably then the award of damages cannot be considered until a court has looked at the other remedies available to it.

390. A court cannot grant some remedies, such as an injunction, if doing so would prejudice a criminal investigation or proceedings.

Background

391. This provision is designed to replicate the effect of provisions in the previous legislation.

Chapter 3**: Employment tribunals**

Section 120***: Jurisdiction***

Effect

392. This section sets out what types of claims under the Act the employment tribunals have jurisdiction to hear. These are cases involving discrimination in a work context (which includes contract workers, partners, office-holders and barristers and advocates). Their jurisdiction also includes cases about the terms of collective agreements (which can cover any of the terms of employment) and rules of undertakings which are unenforceable under section 145 because they provide for treatment which is prohibited by the Act. This is made clear in section 145 of the Act.

393. It also gives jurisdiction to employment tribunals to hear complaints relating to breaches of a non-discrimination rule. Jurisdiction for hearing a complaint regarding a breach of an equality clause or an equality rule is set out in section 127. An employment tribunal can also make a ruling on an application made by a responsible person in relation to an occupational pension scheme (as defined in section 61(4)) for a declaration about his or her rights and those of a worker or member or prospective member of the scheme.

Background

394. This section is designed to replicate the effect of provisions in the previous legislation.

Examples

- A worker is racially abused by a co-worker. She could bring a discrimination claim in the employment tribunal.
- A gay man has applied to become a partner in a firm of accountants but because he is gay he has not been invited for an interview despite being equally or better qualified than other candidates who were invited for an interview. He could bring a discrimination claim in the employment tribunal.

Section 121***: Armed forces cases***

Effect

395. This section establishes that, before bringing a claim under the work provisions of the Act to an employment tribunal, a member of the armed forces must raise his or her complaint through the armed services internal complaints procedure and not withdraw that complaint. If the complainant fails properly to progress his or her internal complaint then it may, in certain circumstances, be treated as if it had been withdrawn. The internal service complaint procedures do not have to be concluded before the complainant brings a claim to an employment tribunal.

Background

396. This section is designed to replicate the effect of provisions in the previous legislation.

Example

- A black soldier who thinks he has been discriminated against by being passed over for promotion would have to make an internal service complaint before bringing his claim to an employment tribunal.

Section 122***: References by court to tribunal, etc.***

Effect

397. The Act does not prevent the civil courts from considering a claim that a pension scheme operates in a discriminatory manner. This section enables a court to strike out such a claim if it

would be more convenient for an employment tribunal to deal with it, or to refer an issue relating to such a claim to an employment tribunal.

Background

398. Employment tribunals have the specialist knowledge and procedures to handle claims relating to discrimination in the work context and this section gives a court power to refer such issues to a tribunal. This section reflects similar provisions in previous legislation.

Example

• An employee who is a member of a pension scheme sues his employer in court alleging the employer operates the scheme in a discriminatory manner. The court decides to refer the issue to an employment tribunal and postpones the case until the tribunal's decision.

Section 123***: Time limits***

Effect

399. This section deals with time limits for cases in the employment tribunals. A person must bring a claim within three months of the alleged conduct taking place. The exception to that rule is a case involving an armed forces complaint, which must be brought within six months. If a person wants to make a claim after that period it is at the tribunals' discretion whether they grant permission to allow them to do so. The test applied by the tribunals is what is “just and equitable” in the circumstances.

400. Where the conduct in respect of which a claim under the Act might arise continues over a period of time, the time limit starts to run at the end of that period. Where it consists of a failure to do something, the time limit starts to run when the person decides not to do the thing in question. In the absence of evidence to the contrary, this is either when the person does something which conflicts with doing the act in question; or at the end of the time when it would have been reasonable for them to do the thing. This section does not apply to a breach of an equality clause or an equality rule, which is covered by section 129.

Background

401. This section is designed to replicate the effect of provisions in previous legislation.

Section 124***: Remedies: general***

Effect

402. This section sets out the remedies available to employment tribunals hearing cases under the Act. It does not however apply to a breach of an equality clause or an equality rule, which is dealt with in sections 132, 133 and 134.

403. An employment tribunal can make a declaration regarding the rights of the complainant and/or the respondent; order compensation to be paid, including damages for injury to feelings; and make an appropriate recommendation. The measure of compensation is that which applies in tort claims, for example claims of negligence, where the compensation puts the claimant in the same position, as far as possible, as he or she would have been in if the unlawful act had not taken place.

404. Where a tribunal makes a recommendation it does not have to be aimed only at reducing the negative impact on the individual claimant(s) of the respondent's actions which gave rise to the successful claim, but can be aimed at reducing that impact on the wider workforce. The recommendation must state that the respondent should take specific action within a specified period

of time. A tribunal has the power in any case where a recommendation made for the benefit of the individual claimant only is not complied with, to award compensation or increase any award already made.

405. In a case of indirect discrimination where the respondent proves that there was no intention to treat the claimant unfavourably, a tribunal cannot award damages to a claimant unless it has first considered making either a declaration or recommendation.

Background

406. This section is designed generally to replicate the effect of provisions in previous legislation, under which employment tribunals could make a declaration, order compensation to be paid and make recommendations. However, under that legislation the recommendations that they could make could only be for the benefit of the individual claimant(s). The Act extends the recommendations power so that employment tribunals can make recommendations which benefit persons other than the claimant.

Example

- A tribunal could recommend that the respondent:
  - — introduces an equal opportunities policy;
  - — ensures its harassment policy is more effectively implemented;
  - — sets up a review panel to deal with equal opportunities and harassment/grievance procedures;
  - — re-trains staff; or
  - — makes public the selection criteria used for transfer or promotion of staff.

Section 125***: Remedies: national security***

Effect

407. This section sets out the restrictions on the types of remedies available to an employment tribunal in cases which have been designated as “national security proceedings”. National security proceedings are those where an order has been made under various provisions of the Employment Tribunals Act 1996 or regulations made under that Act.

408. In national security proceedings a recommendation must not be made for the benefit of the respondent's wider workforce, if the recommendation would affect anything done by the Security Service, the Secret Intelligence Service, the Government Communications Headquarters or a part of the armed forces which assists the Government Communications Headquarters. In such cases the tribunal is limited to making recommendations for the benefit of the individual claimant or claimants.

Background

409. Because the Act extends the recommendations power to benefit persons other than the claimant, this provision is necessary to ensure that such recommendations do not affect national security.

Section 126***: Remedies: occupational pension schemes***

Effect

410. This section sets out the additional remedies available to employment tribunals in cases involving occupational pension schemes. These are cases in which the respondent is an employer, or the trustee or manager of the pension scheme; and the complaint relates to the terms on which membership is offered to a pension scheme or how members of an existing scheme are treated. In

these cases the tribunal can, in addition to the remedies of declaration, compensation and recommendation, also make a declaration about the terms on which a person should be admitted as a member to that scheme or a declaration about the rights of an existing member of that scheme not to be discriminated against.

411. However, a tribunal can award compensation only for injured feelings or for failure to comply with a recommendation; it cannot compensate the claimant for loss caused by the unlawful discrimination.

Background

412. This provision is designed to replicate the effect of provisions in previous legislation.

Chapter 4**: Equality of terms**

Section 127***: Jurisdiction***

Effect

413. This section sets out the types of cases relating to equality of terms which employment tribunals have jurisdiction to hear. Tribunals may hear and decide claims (including those referred to them by courts) involving equality in the rules of occupational pension schemes and claims relating to an equality clause, including claims relating to pregnancy and maternity equality.

414. A responsible person (as defined in section 80, such as an employer, or a pension scheme trustee or manager) can also ask a tribunal for a declaration of each party's rights in relation to a dispute or claim about an equality clause or rule.

415. Members of the armed forces must bring a complaint under service complaints procedures before they can bring a claim to a tribunal.

416. This section does not alter any jurisdiction the courts or the sheriff have in relation to an equality clause or rule.

Background

417. This section is designed to replicate the effect of provisions in previous legislation.

Example

- An employment tribunal can hear claims brought by an employee, office-holder or member of the armed forces in relation to a breach of an equality clause and in relation to breach of an equality rule concerning a pension scheme.

Section 128***: References by court to tribunal, etc.***

Effect

418. The Act does not prevent the civil courts from considering a contractual claim relating to an equality clause or rule. However, this section gives a court the power to strike out such a claim if it would be more convenient for a tribunal to deal with it, or to refer an issue relating to such a claim to an employment tribunal.

Background

419. Employment tribunals have the specialist knowledge and procedures to handle claims relating to equality of terms and this section gives a court power to refer such issues to a tribunal. This section replaces similar provisions in previous legislation.

Example

• An employer sues an employee in a civil court for breach of her employment contract. In response, the employee counterclaims for breach of an equality clause. The court decides to refer the counterclaim to an employment tribunal and postpones the case until the tribunal's decision.

Section 129***: Time limits***

Effect

420. A person who wishes to bring a claim for breach of an equality clause or rule or to apply for a declaration about the effect of such a clause or rule must normally do so within six months of the end of the employment contract. In certain circumstances, this section gives a claimant more time to make a claim. This applies where the employer conceals certain information from the claimant or where the claimant has an incapacity (as defined in section 141). Members of the armed forces have an additional three months in which to bring a claim because they must first make a complaint under the service complaint procedures.

Background

421. This section replaces similar provisions in previous legislation. Time limits provide certainty by requiring claims to be brought within specified periods and also take into account factors which may affect a claimant's ability to assert his or her claim.

Example

• A former member of the armed forces wishes to bring a claim about her terms of service. She first makes a service complaint and then brings a claim for breach of an equality clause in an employment tribunal. The claim for breach of an equality clause must be brought in an employment tribunal within nine months after her period of service ended.

Section 130: Section 129***: supplementary***

Effect

422. Under section 129, the time limit for bringing a claim for breach of an equality clause is six months (nine months for members of the armed forces) from the date on which employment ended in a standard case. Different time limits apply to nonstandard cases. This section defines what is not a standard case.

423. In a stable work case, a series of fixed- or short-term contracts and breaks between contracts is treated as a continuing single contract. In a standard case, the time limit would start at the end of the contract of employment. In a stable work case, the time limit only begins to run when the stable working relationship ends.

424. In a concealment case, the employer deliberately conceals relevant information from the employee. The time limit starts to run when the employee discovers, or could reasonably have discovered, the information.

425. In an incapacity case, the appropriate time limit will start to run when the incapacity ends. Section 141 sets out when a person has an incapacity.

426. The section makes similar provisions for claims by members of the armed forces and in relation to occupational pension schemes.

Background

427. This provision replaces similar provisions in the previous legislation.

Examples

• A woman's employment ends due to mental health problems which result in her temporary loss of capacity to make decisions for herself. She could make a claim for breach of an equality clause to an employment tribunal but is not well enough to do so. The six month time limit will start when she recovers sufficiently to make a claim.

• A woman suspects that her male colleagues who do the same work are better paid. Her employer reassures her that she and her colleagues get the same salary but he deliberately does not tell her that the men also receive performance bonuses under their contracts. Her male colleagues refuse to discuss their pay with her. The woman only discovers the discrepancy between her pay and the men's when one of the men tells her 18 months after she ceases employment. Within six months, she makes an equal pay claim to a tribunal based on the value of the bonus payments she would have received if her contract had provided for them. Although the woman's claim is made more than six months after her employment ends, she shows that her employer deliberately misled her into believing that her salary was the same as the men's. She had no way of discovering the truth earlier. Her claim can proceed as a concealment case.

Section 131***: Assessment of whether work is of equal value***

Effect

428. Where an employment tribunal has to decide if the work of a claimant and comparator are of equal value, this section gives it the power to require an independent expert, designated by the Advisory, Conciliation and Arbitration Service, to prepare a report on the matter.

429. Unless the tribunal withdraws its request for a report (in which case it can ask the expert to give it any documents or other information the expert has to help it make a decision) it must wait for the expert's report before deciding whether the work is of equal value.

430. If there has been a job evaluation study in relation to the work involved and the study finds that the claimant's work is not of equal value to the work of the comparator, the tribunal is required to come to the same decision unless it has a good reason to suspect that the study is discriminatory or unreliable.

Background

431. This provision replaces similar provisions in previous legislation.

Example

• A woman claims that her job is of equal value to that of a male comparator. The employer produces a job evaluation study to the tribunal in which the woman's job is rated below her comparator's job. The employer asks the tribunal to dismiss the woman's claim but the woman is able to show that the study is unreliable because it is out of date and does not take account of changes in the jobs resulting from new technology. The tribunal can disregard the study's conclusion and can proceed to decide if the work of the claimant and the work of the comparator are of equal value.

Section 132***: Remedies in non-pensions cases***

Effect

432. If a claim for breach of an equality clause (other than in relation to a pension scheme) succeeds, the court or employment tribunal can make a declaration clarifying what the rights of the parties to the claim are.

433. The court or tribunal can also order the employer to pay the claimant arrears of pay or damages. The period used for calculating arrears depends on the type of case. There are different periods for claims brought in England and Wales and in Scotland. The basic period in relation to England and Wales is six years from the date a claim is made. In relation to Scotland, the period is five years. Special provision is made for claims involving concealment and/or incapacity (as set out in section 135).

Background

434. This provision replaces similar provisions in previous legislation.

Example

- A woman successfully establishes that her work is the same as her male comparator's and that in addition to a discrepancy between her pay and that of her male comparator, she has been denied access to the benefit of a company car. The claimant is entitled to claim the difference in pay going back up to six years from the date of the claim. She is also entitled to monetary compensation for not having had the use of a company car.

Section 133***: Remedies in pensions cases***

Effect

435. This section allows an employment tribunal to declare that in cases where an equality rule or equality clause has been breached in relation to:

- scheme membership, the complainant is entitled to be admitted to the scheme from a date specified by the tribunal, although the date cannot be earlier than 8 April 1976;
- scheme rights, the complainant is entitled to have any rights which would have accrued under the scheme secured from a date specified by the tribunal, although the date cannot be earlier than 17 May 1990.

436. However, the section prevents a tribunal ordering an award of compensation to the complainant.

Background

437. This section replicates requirements in the Equal Pay Act 1970, as modified by the Occupational Pension Schemes (Equal Treatment) Regulations 1995.

438. The restrictions on dates derive from judgments of the European Court:

- for scheme membership: 8 April 1976, the date of the Court's judgment in *Defrenne v Sabena ((C 43/75) [1981]1 All ER 122; [1976] ECR 455)*. The Court, in holding that the principle of equal pay was directly effective, held that what was Article 119 of the Treaty of Rome (now Article 157 of the Treaty on the Functioning of the European Union) should not be applied to periods of service before the judgment.
- for scheme rights: 17 May 1990, the date of the Court's judgment in *Barber v Guardian Royal Exchange Assurance Group ((C 262/88)[1991] 1 QB 344; [1990] ECR I-1889)*, which established that occupational pensions were pay for the purposes of what was Article 119 of the Treaty of Rome.

Section 134***: Remedies in claims for arrears brought by pensioner members***

Effect

439. This section allows a court or an employment tribunal to require compensation to be paid to a pensioner member for a breach of an equality clause or rule in relation to an occupational pension scheme and sets out the period for which arrears may be awarded for different types of cases. In a standard case in England and Wales, the period is six years before the date when a claim is made. Different periods apply to cases brought in England and Wales and to cases brought in Scotland. Special provision is made for claims involving concealment and/or incapacity (as set out in section 135).

Background

440. This section replicates requirements previously in the Equal Pay Act 1970, as modified by the Occupational Pension Schemes (Equal Treatment) Regulations 1995.

Section 135**: Supplementary**

Effect

441. The amount an employment tribunal can award a successful claimant is affected by how far back in time it can go in making its calculation. The type of case which is before the tribunal determines this period. This section defines the different types of cases.

Background

442. This section replicates the effect of similar provisions in previous legislation.

Chapter 5**: Miscellaneous**

Section 136***: Burden of proof***

Effect

443. This section provides that, in any claim where a person alleges discrimination, harassment or victimisation under the Act, the burden of proving his or her case starts with the claimant. Once the claimant has established sufficient facts, which in the absence of any other explanation point to a breach having occurred, the burden shifts to the respondent to show that he or she did not breach the provisions of the Act. The exception to this rule is if the proceedings relate to a criminal offence under this Act.

Background

444. Under previous legislation, in most cases the burden of proof was reversed once the claimant had established a case to an initial level. However, the burden of proof was not previously reversed in race discrimination claims brought because of colour and nationality; claims of victimisation which related to race discrimination; non-work disability discrimination claims; and sex discrimination claims which related to the exercise of public functions. In these areas the burden of proof is now reversed once the claimant establishes his or her case to an initial level.

Example

- A man of Chinese ethnic origin applies for a promotion at work but is not given an interview for the job. He finds that a number of white colleagues were given interviews despite having less experience and fewer qualifications. He brings a case for race discrimination before the employment tribunal and provides sufficient evidence to show that he had been treated less favourably because of his ethnic origin. It would then be up to his employer to prove that she had not discriminated against him in the promotion process.

Section 137***: Previous findings***

Effect

445. This section provides that if a person has brought a case under any of the previous legislation listed in this section (which this Act replaces), and a finding by a tribunal or court has been finalised, the issues decided in that case cannot be reopened and litigated again under the provisions in this Act.

Background

446. This provision is necessary because the Act replaces many of the provisions in the legislation listed at subsection (2). It would not be appropriate for the Act to allow the re-opening of issues which have been decided in proceedings under the previous legislation.

Section 138***: Obtaining information, etc.***

Effect

447. This section provides a mechanism for a person who thinks that he or she may have been unlawfully discriminated against, harassed or victimised to obtain information from the person he or she thinks has acted unlawfully against him or her (that is to say, the potential respondent or defendant). The person may ask questions either on a form prescribed by order by a Minister of the Crown or in some other form.

448. The questions and the answers are admissible as evidence in a case brought under the Act and the court or tribunal may draw inferences from a failure by the respondent to answer the questions posed within eight weeks or from evasive or equivocal answers.

449. However, the court or tribunal cannot draw such inferences in certain specified circumstances. These are if the respondent says that to answer differently would have prejudiced criminal proceedings or revealed the reason for criminal proceedings being withdrawn or not being brought and this is reasonable. The section contains a power for a Minister of the Crown to specify by order additional circumstances where such inferences may not be drawn.

Background

450. This provision is designed to replicate the effect of provisions in previous legislation.

Section 139***: Interest***

Effect

451. This section enables a Minister of the Crown to make regulations enabling an employment tribunal to add interest payments to any award of compensation made to a claimant as a result of a discrimination case brought under this Act. The regulations can set out how the tribunal should calculate how much interest should be paid.

452. The regulations may provide that interest is to be calculated in a different way in discrimination proceedings from how it is in other cases before the employment tribunals, so they can modify the effect of an order made under the Employment Tribunals Act 1996 about interest calculations which applies to employment cases more generally.

Background

453. This replicates powers contained in previous legislation.

Example

• A claimant is awarded compensation for being discriminated against by his employer. Regulations made under this section may provide that if the award is not settled by the respondent within 14 days of the employment tribunal's decision then interest is to accrue on this award. The current regulations specify that the rate of interest applied to unpaid awards is fixed at 8%. A different rate can be applied if this is provided in regulations.

Section 140***: Conduct giving rise to separate proceedings***

Effect

454. This section enables an employment tribunal to transfer a case to a county or sheriff court, or a court to transfer a case to an employment tribunal, if it is based on the same conduct as one or more separate cases and one of the claims relates to instructing, causing or inducing a person to discriminate against, harass or victimise another person. It also provides that an employment tribunal or court cannot make a decision about such a case which is inconsistent with an earlier decision about the same conduct.

Background

455. This is a new provision which will allow for the transfer of certain types of connected cases between the tribunals and courts.

Example

• An employer instructs an employee to discriminate against a customer. The customer brings a case against the employer or an employee in a county court. The employee brings a case against the employer in an employment tribunal. These claims both arise out of the same conduct and so the court and the tribunal can transfer one set of proceedings so that they can be dealt with together as this is a better way of managing the cases.

Section 141***: Interpretation, etc.***

Effect

456. This section explains the meaning of various terms used in this Part.

PART 10**: CONTRACTS, ETC.**

Section 142***: Unenforceable terms***

Effect

457. This section makes terms of contracts which discriminate against a person or would otherwise lead to conduct prohibited by the Act unenforceable in that respect. But a person who would have been disadvantaged by any such term will still be able to rely on it so as to obtain any benefit to which it entitles him.

458. For disability alone, this section also applies to terms of non-contractual agreements relating to the provision of employment services (within section 56(2)(a) to (e)) or group insurance arrangements for employees. These terms are referred to in the section as “relevant non-contractual terms”.

459. This section does not apply to a term of contract modified by an equality clause under Part 5, Chapter 3, because once the term is modified it is no longer discriminatory. Nor, as a result of section 148, does it deal with contractual terms which may breach the public sector equality duty (Part 11, Chapter 1) or the public sector duty regarding socio-economic inequalities (Part 1), to which different enforcement mechanisms apply.

Background

460. The section replaces provisions in previous legislation which had a similar effect including the specific protection for certain non-contractual provisions in the Disability Discrimination Act 1995.

Example

• A term in a franchise agreement which included a requirement that the franchisee should only employ Asian people (which would be unlawful direct discrimination because of race unless an exception applied) could not be enforced by the franchisor. But the franchisee could still obtain any benefit he is due under the term, for example he could continue operating the franchise. However, if the franchisee complied with the discriminatory term, a person discriminated against under it could make a claim against the franchisee for unlawful discrimination under other provisions in the Act.

Section 143***: Removal or modification of unenforceable terms***

Effect

461. This section allows a county court (or a sheriff court in Scotland) to modify or remove a contractual (or relevant non-contractual) term which is made unenforceable under section 142, when asked to do so by a person who has an interest in the contract (which includes anyone affected by it). The court may also decide that the term is to be treated as having been removed or modified during the period prior to the making of the order.

462. The court must first ensure that anyone who would be affected has been told of the proceedings and given an opportunity to make his or her views known. Rules of court determine what the court must do to meet this obligation.

Background

463. This section replaces similar provisions in previous legislation.

Example

• A person renting an office in a serviced office block could ask for a term in the rental contract to be amended if the term discriminated indirectly, for example by including an unjustified requirement that people entering the premises remove any facial covering (thus discriminating against Muslim women). The term could be adjusted by the court or sheriff to allow special arrangements to be made to satisfy both genuine security needs of other users and the religious needs of Muslim women visiting the claimant.

Section 144**: Contracting out**

Effect

464. Under this section, contractual and relevant non-contractual terms which try to exclude or limit the operation of any provision in the Act (which includes those dealing with equality of terms) or a provision of secondary legislation made under the Act (for example regulations made under section 81 (ships and hovercraft)) are unenforceable by the person in whose favour the term operates. There are exceptions to this to allow negotiated settlement of claims in the following circumstances:

• a contract settling a claim in an employment tribunal (including an agreement settling a claim for a breach of an equality clause) that has been negotiated with the help of a conciliation officer or which meets the standards set out in section 147 (meaning of qualifying compromise contract). This includes an arbitration agreement made in accordance with a

scheme under section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992 (where the parties agree to submit a dispute to arbitration);
• a contract settling a county or sheriff court claim.

Background

465. This section replaces similar provisions in previous legislation.

Examples

• A woman who thinks she may have a claim for unlawful discrimination upon being made redundant may give up any right to pursue the claim under the Act in return for payment. She will not then be able to ask a court to modify or remove that term so as to pursue the claim at a later date.
• However, if the agreement was not reached with the assistance of a conciliation officer or was not a qualifying compromise agreement, it would be unenforceable (and thus would not prevent the claimant pursuing the claim before an employment tribunal).

Section 145***: Void and unenforceable terms***

Effect

466. This section deals with collective agreements (which are defined in the Trade Union and Labour Relations (Consolidation) Act 1992).

467. It also deals with rules of undertakings of employers, trade organisations and qualifications bodies (which are defined in Part 5).

468. Any term of a collective agreement is rendered void to the extent that it discriminates against a person or would otherwise lead to conduct prohibited by the Act. Terms of collective agreements are made void rather than unenforceable because making them unenforceable would be of no help to those affected, since they are unenforceable in any case unless incorporated into a contract. The term is therefore made of no effect at all, leaving the interested parties to renegotiate.

469. A rule of an undertaking which discriminates against a person or would otherwise lead to conduct prohibited by the Act is made unenforceable. A rule of an undertaking is defined in section 148 as a rule made by a qualifications body or trade organisation in relation to membership or conferral of a qualification, or a rule made by an employer for application to employees and prospective employees.

Background

470. This section replaces similar provisions in previous legislation.

Examples

• A collective agreement which required jobs in a particular part of a factory to be given only to men would be void, so a woman who applied could not be refused on those grounds.
• An indirectly discriminatory rule of a qualifications body (providing for example a professional qualification for plumbers) which required that applicants must have two years' previous experience with a British firm would be unenforceable against a person who had the equivalent experience with a foreign firm. It would still be enforceable against a person who did not have the required experience at all (provided it was justified).

Section 146***: Declaration in respect of void term, etc.***

Effect

471. This section enables an employment tribunal to declare a term of a collective agreement void, or a rule of an undertaking unenforceable, as set out in section 142, when a person thinks that it might in the future have the effect of discriminating against him or her. Because collective agreements apply to many people in many (possibly varying) situations, it is not appropriate for a tribunal to modify them and so they are made void, rather than subject to modification or amendment, and the parties are left to renegotiate, bearing all those potentially affected in mind.

472. The section sets out who can make a complaint in each instance. Terms of discriminatory collective agreements can be challenged by employees or prospective employees. Rules of undertakings of employers can be challenged by employees or prospective employees; those of trade organisations by members or prospective members; and those of qualifications bodies by persons seeking or holding relevant qualifications (as defined in section 54).

Background

473. This section replaces similar provisions in previous legislation.

Example

- A person who is studying for an engineering qualification who is told he will only be eligible for it if he passes a test of his ability to write English can ask a tribunal to declare that the rule requiring the test is indirectly discriminatory and therefore, if unjustified, unenforceable.

Section 147***: Meaning of***"qualifying compromise contract"

Effect

474. This section sets the conditions under which a compromise contract settling a case can be lawful, even though it seeks to limit the application of the Act under section 144.

475. It must be a written contract which meets each of the following conditions: the contract must be tailored to the circumstances of the claim, the complainant must have received independent advice from a named person who is insured or indemnified against the risk of a claim against him arising from that advice, and the contract must state that the conditions about independent advice and insurance have been met.

476. The section describes who can be an independent adviser and includes a power to add new descriptions of people who may be independent advisers in the future. It makes clear that a conflict of interest prevents a person being an independent adviser.

Background

477. The section replaces provisions in previous legislation which had the same purpose. The power to add to the kinds of person who may be independent advisers could be used to add, for example, Fellows of the Institute of Legal Executives employed by a solicitors' practice.

Examples

- An employee who settled a claim at an employment tribunal on the advice of a lawyer who works for the employer he was seeking to sue would still be able to pursue the claim (assuming a conciliation officer was not involved in the settlement). The settlement agreement would be unenforceable because the lawyer had a conflict of interest and therefore the agreement would not be a qualifying compromise contract.

• An employee who settled a claim of harassment in a contract which also provides that she will forego all other claims arising under the Act in exchange for a fixed sum would still be able to pursue a claim for damages because of a discriminatory failure to promote her. The term of the contract precluding all claims would be unenforceable in respect of the discrimination claim because it is insufficiently tailored to the circumstances of the claim and therefore is not a qualifying compromise contract in respect of it.

Section 148***: Interpretation***

Effect

478. This section explains what is meant by various terms used in this Part of the Act, or applies definitions provided elsewhere. These are referred to in the notes on earlier sections.

PART 11**: ADVANCEMENT OF EQUALITY**

Chapter 1**: Public sector equality duty**

Section 149***: Public sector equality duty***

Effect

479. This section imposes a duty, known as the public sector equality duty, on the public bodies listed in Schedule 19 to have due regard to three specified matters when exercising their functions. The three matters are:

• eliminating conduct that is prohibited by the Act, including breaches of non-discrimination rules in occupational pension schemes and equality clauses or rules which are read, respectively into a person's terms of work and into occupational pension schemes;
• advancing equality of opportunity between people who share a protected characteristic and people who do not share it; and
• fostering good relations between people who share a protected characteristic and people who do not share it.

480. The second and third matters apply to the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. They do not apply to the protected characteristic of marriage and civil partnership.

481. As well as the public bodies listed in Schedule 19, the section also imposes the public sector equality duty on others that exercise public functions, but only in respect of their public functions. Section 150 explains what is meant by “public function”.

482. Subsections (3), (4) and (5) expand on what it means to have due regard to the need to advance equality of opportunity and foster good relations. In particular, subsection (4) makes clear that having due regard to the need to advance equality of opportunity between disabled people and non-disabled people includes consideration of the need to take steps to take account of disabled people's disabilities. Subsection (6) makes clear that complying with the duty might mean treating some people more favourably than others, where doing so is allowed by the Act. This includes treating disabled people more favourably than non-disabled people and making reasonable adjustments for them, making use of exceptions which permit different treatment, and using the positive action provisions in Chapter 2 of this Part where they are available.

483. Schedule 18 sets out persons and functions to which the equality duty does not apply.

Background

484. This section replaces section 71 of the Race Relations Act 1976, section 49A of the Disability Discrimination Act 1995 and section 76A of the Sex Discrimination Act 1975. These provisions imposed similar public sector equality duties in relation to race, disability and gender (including pregnancy and maternity as an implicit part of gender, and partly covering gender reassignment) respectively. There were no equivalent public sector equality duties for age, religion or belief or sexual orientation in previous legislation. The section extends the new public sector equality duty to cover gender reassignment in full, age, religion or belief and sexual orientation.

Examples

- The duty could lead a police authority to review its recruitment procedures to ensure they do not unintentionally deter applicants from ethnic minorities, with the aim of eliminating unlawful discrimination.
- The duty could lead a local authority to target training and mentoring schemes at disabled people to enable them to stand as local councillors, with the aim of advancing equality of opportunity for different groups of people who have the same disability, and in particular encouraging their participation in public life.
- The duty could lead a local authority to provide funding for a black women's refuge for victims of domestic violence, with the aim of advancing equality of opportunity for women, and in particular meeting the different needs of women from different racial groups.
- The duty could lead a large government department, in its capacity as an employer, to provide staff with education and guidance, with the aim of fostering good relations between its transsexual staff and its non-transsexual staff.
- The duty could lead a local authority to review its use of internet-only access to council services; or focus “Introduction to Information Technology” adult learning courses on older people, with the aim of advancing equality of opportunity, in particular meeting different needs, for older people.
- The duty could lead a school to review its anti-bullying strategy to ensure that it addresses the issue of homophobic bullying, with the aim of fostering good relations, and in particular tackling prejudice against gay and lesbian people.
- The duty could lead a local authority to introduce measures to facilitate understanding and conciliation between Sunni and Shi'a Muslims living in a particular area, with the aim of fostering good relations between people of different religious beliefs.

Section 150***: Public authorities and public functions***

Effect

485. This section supplements section 149. It introduces Schedule 19 which lists the public bodies that are subject to the public sector equality duty and provides for them to be subject to this duty in respect of all of their functions unless such a body is listed only in respect of some of its functions, in which case the duty only applies to those specified functions.

486. “Public function” is given the same meaning as it has in the Human Rights Act 1998. This term is used in subsection (2) of section 149, which extends the public sector equality duty to persons not listed in Schedule 19 but who exercise public functions.

Background

487. The public sector equality duties in previous legislation specified which bodies were subject to the duties in different ways. The Race Relations Act 1976 used a list, while the Disability Discrimination Act 1995 and the Sex Discrimination Act 1975 applied the disability equality duty

and the gender equality duty to those who have "functions of a public nature". The Act combines the two approaches by including a list of public bodies subject to the duty, to provide legal certainty, and in addition applying the duty to anyone else who is exercising public functions, in respect of those functions (see subsection (2) of section 149).

Section 151***: Power to specify public authorities***

Effect

488. Schedule 19, which lists public bodies subject to the public sector equality duty, comprises three Parts. This section enables a Minister of the Crown to make an order amending any of those Parts. The changes might consist in adding a new body or removing an existing body, or moving a body from one Part of the Schedule to another. It also enables the Welsh Ministers and the Scottish Ministers, with the consent of a Minister of the Crown, to amend Parts 2 and 3 of the Schedule respectively, which list relevant Welsh and Scottish bodies subject to the duty.

489. Relevant Welsh and Scottish bodies (as defined in section 157) cannot be added to Part 1 of the Schedule. They must be included in Parts 2 and 3 respectively. Nor can cross-border Welsh and Scottish bodies (as defined in section 157) be added to Part 1. Only a Minister of the Crown has the power to amend the Schedule in relation to cross-border Welsh and Scottish bodies. They must be added to what will become a new Part 4, which will be created when the first cross-border body is added to the Schedule.

490. The power to add to the Schedule can only be used where the person exercising the power considers that the person being added is exercising at least one public function. This means that a wholly private company could not be added unless it were carrying out what the person exercising the power considered to be a public function. Orders cannot be made under this section to apply the duty to those functions and people who are excluded from application of the duty by the provisions of Schedule 18 that relate to judicial functions, Parliament, the Scottish Parliament, the National Assembly for Wales and the General Synod.

Examples

- A Minister of the Crown may decide that a new public body which has just been created should be included in the Schedule, and add it to the appropriate Part.
- A public body might cease its devolved activities, and so a Minister of the Crown might move it to Part 1 of the Schedule from another Part of the Schedule.

Section 152***: Power to specify public authorities: consultation and consent***

Effect

491. This section sets out whom a Minister of the Crown must consult before exercising a power under section 151 to amend Schedule 19. On each occasion the Minister must consult the Equality and Human Rights Commission. If the Minister is modifying the Schedule in respect of a relevant Welsh body, or a cross-border Welsh body, then he or she must also consult the Welsh Ministers. And similarly, if the amendment relates to a relevant Scottish body or a cross-border Scottish body, there is a requirement to consult the Scottish Ministers.

492. The section also provides that, before the Welsh Ministers amend Part 2 of the Schedule with respect to relevant Welsh bodies, they must first consult the Equality and Human Rights Commission and obtain the consent of a Minister of the Crown. The same requirements apply to Scottish Ministers with respect to Part 3 of the Schedule and relevant Scottish bodies.

Background

493. The Race Relations Act 1976 did not contain a requirement for the Lord Privy Seal to consult before amending the Schedule of bodies subject to the general race equality duty. Neither the Scottish Ministers nor the Welsh Ministers had the power to amend the Schedule. Neither the Disability Discrimination Act 1995 nor the Sex Discrimination Act 1975 adopted a list-based approach to the general duty.

Section 153***: Power to impose specific duties***

Effect

494. This section enables a Minister of the Crown to make regulations imposing specific duties on public bodies listed in Part 1 of Schedule 19 to enable them to carry out the public sector equality duty more effectively. The Welsh Ministers can similarly impose specific duties on relevant Welsh bodies listed in Part 2 of the Schedule, and the Scottish Ministers can impose specific duties on relevant Scottish bodies listed in Part 3 of the Schedule.

495. Section 154 deals with the imposition of specific duties on public bodies listed in Part 4 of the Schedule (cross-border authorities).

496. The Equality and Human Rights Commission must be consulted before specific duties are imposed.

Background

497. This section replaces similar provisions in previous legislation for the Lord Privy Seal and the Scottish Ministers to impose specific duties for the race and gender public sector equality duties, and for the Secretary of State and the Scottish Ministers to impose specific duties for the disability public sector equality duty. The Welsh Ministers previously did not have the power to impose specific duties on Welsh bodies.

498. The pre-existing provisions have in the past been used to require listed public bodies to prepare and publish race, disability and gender equality schemes, for example.

Section 154***: Power to impose specific duties: cross-border authorities***

Effect

499. This section sets out the process for determining who imposes specific duties on any cross-border Welsh and Scottish bodies that may in time be added to Part 4 of the Schedule.

500. Whenever a body is listed in Part 4 of the Schedule, beside its entry will appear a letter corresponding to the procedure to be followed.

501. For all the procedures, the person imposing the specific duties must consult the Equality and Human Rights Commission.

Background

502. In respect of the previous race and gender public sector equality duties the Scottish Ministers had the power to impose specific duties on the devolved functions of cross-border Scottish bodies, subject to consultation with the Lord Privy Seal or, in the case of the disability public sector equality duty, the Secretary of State. The Lord Privy Seal in relation to the race and gender public sector equality duties, or the Secretary of State in relation to the disability public sector equality duty, had the power to impose specific duties on the non-devolved, or reserved, functions of those cross-border Scottish bodies, again subject to consultation with the Scottish Ministers. Before imposing specific duties in respect of the previous race, disability and gender public sector equality duties which

related to functions in Wales exercisable by a person who was not a Welsh public body, the Lord Privy Seal or the Secretary of State as the case may be had to consult the Welsh Ministers.

Section 155***: Power to impose specific duties: supplementary***

Effect

503. This section provides that a specific duty imposed using the powers in sections 153 and 154 may require public bodies to consider matters set out elsewhere by a Minister of the Crown, or the Welsh or Scottish Ministers.

504. This section also makes clear that a Minister of the Crown or the Welsh or Scottish Ministers may impose specific duties on public bodies listed in Schedule 19 that are also contracting authorities for public procurement purposes in relation to their public procurement functions, for example when buying goods and services from private firms. “Public procurement functions” are those activities that fall within the European law public procurement regime. The provisions on public procurement do not affect the extent of any other provision that may be made using the powers in sections 153 and 154 outside this field.

505. This section also provides that a Minister of the Crown and the Welsh and Scottish Ministers may modify or remove duties that they have imposed. A duty imposed by one Minister of the Crown may be modified by a different Minister of the Crown.

Background

506. The previous public sector equality duties did not provide for the imposition of specific duties which required public bodies to take into account matters set out elsewhere. It was inherent, but not explicit, in those duties that duties could be imposed which apply to a body's public procurement functions.

Examples

- A person exercising the power may decide to impose a specific duty that requires specified public bodies to take into account particular national priorities set out in a Public Service Agreement when setting their equality objectives.
- A person exercising the power may decide to impose a specific duty which requires contracting authorities to set out how they will use their procurement functions to better meet the requirements of the public sector equality duty.

Section 156***: Enforcement***

Effect

507. This section is designed to make it clear that the duties imposed by or under Chapter 1 of Part 11 do not create any private law rights for individuals. These duties are, however, enforceable by way of judicial review.

Background

508. This section is new, but it reflects the position under previous legislation.

Example

- A local council fails to give due regard to the requirements of the public sector equality duty when deciding to stop funding a local women's refuge. An individual would not be able to sue the local council as a result and claim compensation. She would need to consider whether to pursue judicial review proceedings.

Section 157***: Interpretation***

Effect

509. This section defines the terms used in this Chapter to refer to devolved issues.

510. The other sections in this Chapter refer to relevant Welsh and Scottish bodies, cross-border Welsh and Scottish bodies and devolved Welsh and Scottish functions. This section explains what all those terms mean.

Chapter 2**: Positive action**

Section 158***: Positive action: general***

Effect

511. This section provides that the Act does not prohibit the use of positive action measures to alleviate disadvantage experienced by people who share a protected characteristic, reduce their under-representation in relation to particular activities, and meet their particular needs. It will, for example, allow measures to be targeted to particular groups, including training to enable them to gain employment, or health services to address their needs. Any such measures must be a proportionate way of achieving the relevant aim.

512. The extent to which it is proportionate to take positive action measures which may result in people not having the relevant characteristic being treated less favourably will depend, among other things, on the seriousness of the relevant disadvantage, the extremity of need or under-representation and the availability of other means of countering them. This provision will need to be interpreted in accordance with European law which limits the extent to which the kind of action it permits will be allowed.

513. To provide greater legal certainty about what action is proportionate in particular circumstances, the section contains a power to make regulations setting out action which is not permitted under it.

514. If positive action measures are taken in recruitment or promotion under section 159(3) or the selection of political candidates under section 104, those provisions will apply rather than this section.

515. Should the provision allowing single-sex shortlists for the selection of political candidates (section 104(7)) be repealed, this section will not permit action to be taken similar to that permissible under that provision.

516. This section does not allow any action to be taken that would be prohibited by other legislation.

Background

517. This section is new. There were positive action provisions in previous legislation, but these applied to different protected characteristics in different ways and in some cases were specific about the types of action they permitted. This section extends what is possible to the extent permitted by European law, and applies in relation to all protected characteristics.

Examples

- Having identified that its white male pupils are underperforming at maths, a school could run supplementary maths classes exclusively for them.
- An NHS Primary Care Trust identifies that lesbians are less likely to be aware that they are at risk of cervical cancer and less likely to access health services such as national

screening programmes. It is also aware that those who do not have children do not know that they are at an increased risk of breast cancer. Knowing this it could decide to establish local awareness campaigns for lesbians on the importance of cancer screening.

Section 159***: Positive action: recruitment and promotion***

Effect

518. This section permits an employer to take a protected characteristic into consideration when deciding whom to recruit or promote, where people having the protected characteristic are at a disadvantage or are under-represented. This can be done only where the candidates are as qualified as each other. The question of whether one person is as qualified as another is not a matter only of academic qualification, but rather a judgement based on the criteria the employer uses to establish who is best for the job which could include matters such as suitability, competence and professional performance. The section does not allow employers to have a policy or practice of automatically treating people who share a protected characteristic more favourably than those who do not have it in these circumstances; each case must be considered on its merits. Any action taken must be a proportionate means of addressing such disadvantage or under-representation.

519. The section defines recruitment broadly, so that for example offers of partnership or pupillage, or tenancy in barristers' chambers, are included.

520. The section is intended to allow the maximum extent of flexibility to address disadvantage and under-representation where candidates are as good as each other, within the confines of European law.

Background

521. This section is new. While previous legislation allowed employers to undertake a variety of positive action measures, for instance offering training and encouragement for certain forms of work, it did not allow employers to take any form of positive action at the actual point of recruitment or promotion. This section extends what is possible to the extent permitted by European law, and applies in relation to all protected characteristics.

Examples

• A police service which employs disproportionately low numbers of people from an ethnic minority background identifies a number of candidates who are as qualified as each other for recruitment to a post, including a candidate from an under-represented ethnic minority background. It would not be unlawful to give preferential treatment to that candidate, provided the comparative merits of other candidates were also taken into consideration.

• An employer offers a job to a woman on the basis that women are under-represented in the company's workforce when there was a male candidate who was more qualified. This would be unlawful direct discrimination.

PART 12**: DISABLED PERSONS: TRANSPORT**

Chapter 1**: Taxis, etc.**

Section 160***: Taxi accessibility regulations***

Effect

522. This section contains a power for the Secretary of State to make regulations (in relation to England and Wales) specifying the technical standards applying to licensed taxis and imposing requirements on taxi drivers, to enable disabled people to access taxis safely, even when seated in

a wheelchair, and to be carried in safety and reasonable comfort. It makes it an offence, punishable by a fine of (currently) up to £1,000, for a driver of a regulated taxi to fail to comply with the requirements of the regulations.

Background

523. This section replicates provisions the effect of conditions in section 32 of the Disability Discrimination Act 1995.

524. These conditions do not apply to taxis which are drawn by horses or other animals.

Examples

- It is an offence for a taxi driver not to comply with a requirement to have a ramp or other device to enable a disabled person in a wheelchair to access the taxi in safety.
- It is an offence for a taxi driver not to comply with a requirement to ensure the correct position of a wheelchair in the taxi so as to ensure the disabled person can travel in safety.

Section 161***: Control of numbers of licensed taxis: exception***

Effect

525. A licensing authority (in England or Wales) cannot refuse to license a wheelchair-accessible vehicle on the grounds of controlling taxi numbers, if the proportion of wheelchair-accessible vehicles operating in the area is smaller than the proportion prescribed in regulations by the Secretary of State.

Background

526. This is a new provision. Section 16 of the Transport Act 1985 permits licensing authorities to control the number of taxis operating in their areas by refusing licences, if satisfied that there is no unmet demand for taxis in the area.

527. Section 161 is intended to ensure that licensing authorities in England or Wales with few, or even no, wheelchair-accessible taxis operating in their areas cannot refuse licences to wheelchair-accessible vehicles on the grounds of controlling taxi numbers.

Examples

- Owing to a large number of taxis operating in the area, a licensing authority has decided not to license any more taxis. However, of the licensed taxis, only a few are wheelchair-accessible. The owner of a wheelchair-accessible vehicle applies for a taxi licence. Since the proportion of wheelchaira-ccessible vehicles in the area is below the level prescribed by the Secretary of State, the licensing authority cannot refuse to issue a taxi licence for the vehicle for the purposes of controlling taxi numbers.
- Another owner of a wheelchair-accessible vehicle also applies for a taxi licence at the same licensing authority. However, the vehicle does not meet the licensing authority's other requirements, as it is too old. The licensing authority is therefore able to refuse the licence on the grounds that the vehicle is too old.

Section 162***: Designated transport facilities***

Effect

528. This section enables the Secretary of State in England and Wales, or Scottish Ministers in Scotland, to make regulations applying taxi provisions contained in or made under Chapter 1 of

Part 12 of the Act or under section 20(2A) of the Civic Government (Scotland) Act 1982 to private hire vehicles used in the provision of services under a franchise agreement.

Background

529. This section replicates similar provisions in section 33 of the Disability Discrimination Act 1995.

530. Franchise agreements exist between operators of transport facilities (premises which form part of railway stations, airports, ports and bus stations) and operators of private hire cars, in order to provide services to members of the public so that they can travel from, for example, the mainline station to their destination. This section allows requirements to be placed on vehicles used under a franchise agreement and their drivers to ensure accessibility for disabled people.

Example

- Regulations could require that the vehicles entering, and for use in, an airport to fulfil the terms of a franchise agreement must be accessible to wheelchair users.

Section 163***: Taxi licence conditional on compliance with taxi accessibility regulations***

Effect

531. This section prevents a licensing authority from granting a licence for a taxi to ply for hire unless the vehicle complies with the regulations made under section 160, so as to ensure that licensed taxis in use are accessible by disabled passengers. The provisions do not apply if a licence has been in force in respect of the taxi in the preceding 28 days, so that existing vehicles can continue to be used even if they do not meet the accessibility requirements.

Background

532. This section replicates similar provisions in section 34 of the Disability Discrimination Act 1995.

Examples

- Someone making an application for a taxi licence will need to ensure the taxi will be accessible by disabled people.
- A driver renewing the licence for a taxi will not need to show that the vehicle meets the accessibility requirements as long as it was licensed in the 28 days preceding the grant of the new licence.

Section 164***: Exemption from taxi accessibility regulations***

Effect

533. This section contains a power for the Secretary of State to make regulations allowing a licensing authority to apply for an order exempting it from the requirements of section 163 if it has undertaken a consultation, published the outcome and taken into account any representations. A licensing authority may only apply for an exemption order if applying section 163 would reduce the number of taxis in the area to an unacceptable level.

534. The Secretary of State may grant or refuse such an order but, before deciding whether or not to do so, is required to consult the Disabled Persons Transport Advisory Committee and any other appropriate persons. In granting an exemption order, the Secretary of State may impose certain conditions. Where exemption is given from the full accessibility requirements, taxis may instead

be required to be fitted with swivel seats and to conform to any safety conditions when such seats are in use.

Background

535. This section replicates provisions in section 35 of the Disability Discrimination Act 1995.

Example

- A particular licensing authority can apply for an exemption order if it considers that requiring all taxis to comply with the accessibility requirements would mean that licensed taxi drivers in the area would transfer from being hackney carriage drivers to private hire vehicle drivers, because the cost of purchasing accessible taxis would make their business unprofitable. The Secretary of State can agree to make an exemption order but, in doing so, can require a certain number of accessible taxis to be available in the area.

Section 165***: Passengers in wheelchairs***

Effect

536. This section places duties on drivers of designated taxis and private hire vehicles to carry a disabled passenger while in a wheelchair; to not make an additional charge; if the passenger chooses to sit in a passenger seat, to carry the passenger's wheelchair; to carry the passenger in safety and in reasonable comfort; and to provide reasonable assistance to enable the passenger to use the taxi. A taxi or private hire vehicle is designated if it appears on a list maintained by the local licensing authority under section 167.

537. A driver of a designated taxi or private hire vehicle who refuses to carry a wheelchair user commits an offence punishable by a fine of (currently) up to £1,000.

Background

538. This section has its basis in section 36 (as amended by the Local Transport Act 2008) of the Disability Discrimination Act 1995. The previous legislation applied the provisions of this section to regulated taxis. The provisions in this section now apply just to the drivers of designated, rather than regulated, taxis and private hire vehicles. Further explanation of provisions regarding the designation of wheelchair accessible vehicles is provided in the notes on section 167.

Examples

- A person in a wheelchair hires a wheelchair-accessible taxi or private hire vehicle. The driver must help the passenger into and out of the vehicle by using a ramp or lift and helping the passenger onto the lift or up the ramp. The driver must ensure the wheelchair is correctly positioned in the vehicle and secured so that the passenger travels safely and in reasonable comfort.
- If a passenger in a wheelchair wishes to travel in a passenger seat, the driver must assist the passenger into and out of the vehicle and transport the wheelchair.
- A driver must load a disabled passenger's luggage into and out of the taxi.
- A driver cannot charge a person in a wheelchair more than any other passenger.

Section 166***: Passengers in wheelchairs: exemption certificates***

Effect

539. The Secretary of State may make regulations which allow a licensing authority to exempt a driver from the duties contained in section 165 if it is satisfied that the driver cannot provide assistance due to a medical or physical condition.

540. The exemption certificate must be displayed in the vehicle.

Background

541. This section has its basis in section 36 of the Disability Discrimination Act 1995, but it extends further, as described in relation to section 165 above.

Example

- A driver is not required to provide physical assistance to help a passenger in a wheelchair into and out of a vehicle if he is medically unfit to do so.

Section 167***: Lists of wheelchair-accessible vehicles***

Effect

542. This section permits a licensing authority to maintain a list of wheelchairaccessible taxis and private hire vehicles operating in its area. If it so wishes, a licensing authority may decide to list just those vehicles that also hold a special licence to operate a local bus service, and not list wheelchair-accessible vehicles that hold only a conventional licence.

543. The duties contained in section 165 will apply to drivers of the vehicles that appear on the list of designated wheelchair-accessible vehicles.

544. The section permits the Secretary of State to issue guidance to licensing authorities and the licensing authority must have regard to any guidance issued.

Background

545. This section has its basis in section 36A of the Disability Discrimination Act 1995, which allowed licensing authorities to maintain lists of wheelchair-accessible vehicles with special licences to operate a local bus service. However, provisions in this section now extend further to allow licensing authorities to also include wheelchair-accessible vehicles that hold only conventional licences.

Examples

- A licensing authority maintains a list of the wheelchair-accessible taxis and private hire vehicles operating in its area. The drivers of the vehicles on that list are required to perform the duties to assist passengers in wheelchairs contained in section 165.
- The driver of a vehicle that is included on the list will provide assistance to passengers in wheelchairs and will not charge them an additional fare.

Section 168***: Assistance dogs in taxis***

Effect

546. This section places duties on drivers of taxis in England and Wales to transport a disabled person's assistance dog, for example, a blind person's guide dog, and allow it to stay with the passenger without making any additional charge. Under section 20 of the Civic Government (Scotland) Act 1982, regulations may make provision corresponding to sections 168 and 169 for Scotland.

547. A driver of a taxi who refuses to carry an assistance dog commits an offence that is punishable by a fine of (currently) up to £1,000.

Background

548. This section replicates the main provision contained in section 37 of the Disability Discrimination Act 1995.

Example

- A person with an assistance dog hails a taxi. The driver must not refuse to transport the assistance dog and must let it accompany the passenger in the taxi.

Section 169***: Assistance dogs in taxis: exemption certificates***

Effect

549. This section permits a licensing authority in England and Wales to exempt a driver of a taxi from the duties contained in section 168 if it is satisfied that the driver cannot carry an assistance dog on medical grounds, or that the vehicle is not suitable for the carriage of assistance dogs.

550. The exemption certificate must be displayed on the taxi.

Background

551. This section is designed to replicate the exemption provision that was contained in section 37 of the Disability Discrimination Act 1995. However the definition of "licensing authority" in relation to London now means "Transport for London" as it is this body that exercises functions relating to taxi licensing.

Example

- A driver who has a medically certified allergy to dogs is not required to carry an assistance dog, as long as she displays an exemption certificate on her taxi.

Section 170**: Assistance dogs in private hire vehicles**

Effect

552. This section places duties on operators and drivers of private hire vehicles in England and Wales to transport a disabled person's assistance dog and allow it to stay with the passenger without making any additional charge. Under section 20 of the Civic Government (Scotland) Act 1982, regulations may make provision corresponding to section 170 for Scotland.

553. An operator or driver of a private hire vehicle who refuses to carry an assistance dog commits an offence that is punishable by a fine of (currently) up to £1,000.

Background

554. This section is replicates the main provision contained in section 37A of the Disability Discrimination Act 1995.

Examples

- A driver of a private hire vehicle cannot impose an additional charge for carrying an assistance dog.
- An operator of a fleet of private hire vehicles accepts a booking from a passenger with an assistance dog. The driver cannot refuse to carry the assistance dog.

Section 171***: Assistance dogs in private hire vehicles: exemption certificates***

Effect

555. This section permits a licensing authority in England and Wales to exempt a driver of a private hire vehicle from the duties contained in section 170 if it is satisfied that the driver cannot carry an

assistance dog because of a medical condition, or that the vehicle is not suitable for the carriage of assistance dogs.

556. The exemption certificate must be displayed on the private hire vehicle.

Background

557. This section is designed to replicate the exemption provision that was contained in section 37A of the Disability Discrimination Act 1995.

Example

- A driver is not required to carry an assistance dog if he has a medically certified allergy to dogs and displays his exemption certificate in his vehicle.

Section 172***: Appeals***

Effect

558. In England and Wales, if a taxi or a private hire vehicle driver is refused a certificate exempting him or her from the requirements to assist disabled passengers in wheelchairs or to carry assistance dogs, this section gives a right of appeal to a magistrates' court, within 28 days of being refused.

559. In Scotland, if a taxi or private hire vehicle driver is refused a certificate exempting him or her from the requirements to assist disabled passengers in wheelchairs, this section gives a right to appeal to the sheriff, within 28 days of being refused.

560. The owner of a taxi or private hire vehicle may appeal, to the magistrates' court in England and Wales, or the sheriff in Scotland, against a licensing authority's decision to include his or her vehicle on a designated list of wheelchair-accessible vehicles held by the licensing authority under section 167.

Background

561. Section 172 is designed to replicate the provisions of section 38 of the Disability Discrimination Act 1995. However this section also reflects the extension of provisions in section 167 to drivers of designated taxis and private hire vehicles when not providing a local bus service (i.e. when providing a conventional service).

Examples

- A taxi driver applies for a certificate exempting him from the requirement to assist disabled passengers in wheelchairs because he has a bad back. His application is refused by the licensing authority but the driver believes insufficient consideration was given to the medical information supporting his application, so he lodges an appeal within 28 days of the decision. The appeal is successful and the court directs the licensing authority to issue an exemption certificate to the driver.
- A licensing authority lists a taxi or private hire vehicle as being accessible for passengers in wheelchairs, meaning the driver is required to assist disabled passengers in wheelchairs. The owner of the vehicle, who considers that it is not accessible, can appeal the decision to be listed.

Section 173***: Interpretation***

Effect

562. This section explains the meaning of the terms, “accessibility requirements”, “assistance dog”, “taxi” and “taxi accessibility regulations”.

Chapter 2**: Public service vehicles**

Section 174***: PSV accessibility regulations***

Effect

563. This section enables the Secretary of State to make public service vehicle accessibility regulations specifying the technical standards applying to buses and coaches, to provide greater accessibility to disabled passengers including when seated in a wheelchair. The requirements can relate to the construction, use and maintenance of the vehicle, to the design and carriage of equipment, and to wheelchair restraints and wheelchair position.

Background

564. This section replicates the provisions of section 40 of the Disability Discrimination Act 1995.

Example

• Buses and coaches must meet certain technical standards in respect of equipment and design to ensure accessibility by disabled passengers. If accessibility features, such as handrails or other aids, were present when the vehicle was approved but have subsequently been removed, the bus must not be used on the road.

Section 175***: Offence of contravening PSV accessibility regulations***

Effect

565. This section makes it an offence to fail to comply with the requirements of the regulations or to use or allow to be used on the road a public service vehicle which does not meet the requirements of the regulations. If an offence is found to have been committed by or with the consent of a responsible person, such as a director, manager or company secretary, that individual, as well as the company, is guilty of the offence.

566. The offence is punishable by a fine of (currently up) to £2,500.

Background

567. This section replicates the offence provisions of section 40 of the Disability Discrimination Act 1995.

Example

• A bus has an accessibility feature removed and is subsequently used on a registered service. By using, or permitting the vehicle to be used in this condition, an offence is committed and may lead to the driver and the operator being convicted of the offence and a fine of up to £2,500 being imposed.

Section 176***: Accessibility certificates***

Effect

568. This section requires a regulated public service vehicle to have an accessibility certificate to demonstrate that it meets the requirements of the public service vehicle accessibility regulations (see section 174), or an approval certificate (see section 177), before it can be used on a road. It also allows the Secretary of State to make regulations relating to applications and the issue (or copies) of accessibility certificates and providing for vehicle examinations.

Background

569. This section replicates the provisions contained in section 41 of the Disability Discrimination Act 1995.

Example

• A bus must have an accessibility certificate showing that it conforms to requirements about accessibility features, for example, ramps, handrails and wheelchair spaces. The certificate shows that the bus meets the minimum acceptable standard to enable disabled passengers to get on and off it and be carried on it in reasonable safety and comfort.

Section 177***: Approval certificates***

Effect

570. This section allows the Secretary of State to approve a public service vehicle as a "type vehicle" if the relevant technical requirements are met, and the issue of an approval certificate if a particular vehicle conforms with a "type vehicle". This allows a design of vehicle to be approved as meeting the technical and accessibility requirements. It also contains a power for the Secretary of State to make regulations relating to applications and the issue (or copies) of approval certificates and providing for vehicle examinations.

571. The Secretary of State can withdraw approval for a "type vehicle" at any time. When this happens, no further approval certificates may be issued. The certificates issued prior to withdrawal remain valid.

Background

572. This section replicates the provisions contained in section 42 of the Disability Discrimination Act 1995.

Example

• A particular bus manufacturer's chassis in combination with a body is approved as a "type vehicle", and approval certificates are issued in respect of buses conforming to this design. Modifications are subsequently made to the "type vehicle" which mean that it no longer meets the technical requirements, so its approval as a "type vehicle" is withdrawn and no approval certificates will be issued in respect of buses conforming to the modified design.

Section 178***: Special authorisations***

Effect

573. This section contains a power for the Secretary of State to authorise the use of a public service vehicle in certain circumstances where such a vehicle may not meet the requirements of regulations under section 174. It also allows restrictions or conditions to be placed on the use of such vehicles.

Background

574. This section replicates the provisions contained in section 43 of the Disability Discrimination Act 1995.

Example

• A new design of vehicle, which does not conform to the current accessibility regulations, is to be trialled. The Secretary of State makes an order allowing the use of the vehicle in a restricted environment, specifying the permitted areas and times of operation, so that its performance can be tested.

Section 179***: Reviews and appeals***

Effect

575. If the Secretary of State refuses to approve a vehicle as a "type vehicle", this section allows the applicant to ask the Secretary of State to review of the decision on payment of a fee. It also gives a right of appeal to the Secretary of State against any refusal to issue an accessibility or approval certificate. It also allows the Secretary of State to set out the appeals procedure in regulations.

Background

576. This section replicates the provisions contained in section 44 of the Disability Discrimination Act 1995.

Example

- A vehicle manufacturer is refused approval of a new bus design as a "type vehicle". The manufacturer asks the Secretary of State to review the decision and pays the required fee. The Secretary of State must review the decision and any supporting written evidence or representations, and can confirm, vary or reverse the original decision.

Section 180***: Fees***

Effect

577. This section contains a power for the Secretary of State make fees regulations and to charge fees in accordance with them for processing applications for approval as a "type vehicle", processing accessibility and approval certificates, issuing duplicate certificates and conducting reviews and appeals. Fees are not likely to be greater than the amount needed to cover costs. The section allows provision for repaying fees in whole or part in certain circumstances, for example, on a successful appeal.

Background

578. This section replicates the provisions contained in section 45 of the Disability Discrimination Act 1995.

Example

- An applicant may have to pay a fee for accessibility and approval certificates for a public service vehicle, to cover the cost of dealing with the application and inspection process.

Section 181***: Interpretation***

Effect

579. This section explains the meaning of the terms, "accessibility certificate", "approval certificate", "PSV accessibility regulations" and "regulated public service vehicle".

Chapter 3**: Rail vehicles**

Section 182***: Rail vehicle accessibility regulations***

Effect

580. This section includes powers for the Secretary of State to make regulations to ensure that trains, trams and certain other guided transport systems are accessible to disabled people including wheelchair users.

581. However, due to the limited definition of "rail vehicle" used in this section, its scope is restricted to rail vehicles which do not operate on the "interoperable rail system". Regulations made under

this section could therefore only be applicable for the most part to light rail vehicles (those used on metro, underground and tram systems and prescribed modes of guided transport).

582. All rail vehicles must comply with accessibility standards, or have an appropriate exemption in place, by no later than 1 January 2020.

583. Before making any regulations under this section, the Secretary of State must first consult the Disabled Persons Transport Advisory Committee and other representative organisations.

Background

584. This section replicates the provisions of section 46 of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

Example

- All new rail vehicles introduced on metro, underground or tram systems, or prescribed modes of guided transport, will need to be fully accessible or seek an exemption (under section 183) if there are compelling circumstances which mean they cannot comply.

Section 183***: Exemptions from rail vehicle accessibility regulations***

Effect

585. This section contains a power for the Secretary of State to make orders ("exemption orders") authorising a regulated rail vehicle to be used in passenger service even though it does not comply with accessibility standards, or the way it is to be used would not comply with such standards.

586. It provides for regulations to specify who may apply for an exemption order, what information needs to be supplied, how the exemption regime will operate, how long an exemption order can apply and measures for revocation. This list is not exhaustive.

587. Before granting an exemption order, the Secretary of State must first consult the Disabled Persons Transport Advisory Committee and such other persons as considered appropriate.

Background

588. This section replicates the provisions of section 47 of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

Example

- The exemption power can be used to exempt a specified rail vehicle, or a rail vehicle of a specified description or the use of such a vehicle in specified circumstances. So, for example, all the vehicles used on a particular network (such as a heritage or tourist railway or tramway) could be exempted.

Section 184**: Procedure for making exemption orders**

Effect

589. This section provides that exemption orders made under section 183 may, at the discretion of the Secretary of State, be subject to either the draft affirmative resolution or the negative resolution procedure. It sets out the procedure for the exercise of this discretion and enables regulations to be made setting out the criteria under which a decision will be made.

590. The Secretary of State is required to consult the Disabled Persons Transport Advisory Committee, and other appropriate persons, before making such regulations, which are themselves subject to the draft affirmative resolution procedure.

Background

591. This section replicates sections 67(5A) and 67A of the Disability Discrimination Act 1995 as inserted by the Disability Discrimination Act 2005.

Section 185***: Annual report on exemption orders***

Effect

592. This section requires the Secretary of State to produce an annual report ("the report") on the use of powers to exempt regulated rail vehicles from accessibility requirements. The report will be produced for each calendar year and must contain details of all exemption orders made under section 183. It must also contain information about the consultation on both applications for exemption orders and the exercise of discretion under section 184. The report must be laid before both Houses of Parliament.

Background

593. This section replicates the provisions of section 67B of the Disability Discrimination Act 1995 as inserted by the Disability Discrimination Act 2005.

Section 186***: Rail vehicle accessibility: compliance***

Effect

594. This section relates to the provisions of Schedule 20 which contain powers to introduce compliance certification and a civil enforcement regime with associated penalties.

595. Commencement of subsection (1) would bring Schedule 20 into effect. However, subsection (2) provides that, if not commenced (either fully or to any extent) before the end of 2010, this section and Schedule 20 would be automatically repealed.

Background

596. Schedule 20 replicates the provisions of the Disability Discrimination Act 1995section s 47A to 47M as inserted by the Disability Discrimination Act 2005 (but not yet in force). More detail on the reasons why this section has been included in the Act can be found in paragraphs 923–965

Section 187***: Interpretation***

Effect

597. This section includes cross references to explanations of what is meant by the terms "rail vehicle", "regulated rail vehicle" and "rail vehicle accessibility regulations" used throughout this Chapter of the Act. It also explains what is meant by use "for carriage".

Background

598. This section replicates certain provisions of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

Chapter 4**: Supplementary**

Section 188***: Forgery, etc.***

Effect

599. This section makes it a criminal offence for a person to forge, alter, use, lend, or allow another person to use a public service vehicle accessibility certificate, public service vehicle "type" certificate

or any exemption certificate issued in respect of assisting disabled passengers in taxis or carriage of assistance dogs, or to make or have in his possession a document which resembles such a certificate, with intent to deceive. It is also an offence to knowingly make a false statement in order to obtain any of these certificates.

Background

600. This section replicates the effect of provisions in the Disability Discrimination Act 1995.

PART 13**: DISABILITY: MISCELLANEOUS**

Section 189***: Reasonable adjustments***

Effect

601. This section applies the supplementary provisions on reasonable adjustments set out in Schedule 21 to the fields of services, premises, work, education and associations where a person providing a service or delivering functions, an employer or an education provider, or an association is required to consider reasonable adjustments to premises which it rents and would require the landlord's consent to proceed.

Section 190***: Improvements to let dwelling houses***

Effect

602. This section provides a procedure for a disabled tenant or occupier of rented residential premises to seek consent to make a disability-related improvement to the premises where the lease allows a tenant to make an improvement only with the consent of the landlord. The landlord may not unreasonably withhold consent, but may place reasonable conditions on the consent. A landlord who refuses consent must set out the reasons for that refusal. In deciding whether a refusal or condition is unreasonable, the onus is on the landlord to show that it is not. This section applies to all leases of residential property used as the occupier's or tenant's only or main residence, other than a protected tenancy, a statutory tenancy or a secure tenancy. That is because similar rights already apply in respect of those tenancies under the Housing Acts 1980 and 1985.

603. This section applies only in England and Wales.

Background

604. This section replaces similar provisions in the Disability Discrimination Act 1995.

Examples

- A disabled tenant who has mobility problems asks her landlord to consent to the installation of a walk-in shower and a grab rail to help her use the lavatory. Her landlord refuses consent. It would be for the landlord to give reasons for the refusal, and to show that it was not unreasonable.
- The landlord consents to the fitting of the grab rail and shower, on condition that their colour matches the other bathroom fittings, and that they must be removed if the disabled person moves out of the property. These might be reasonable conditions, but it is for the landlord to show that they are.

PART 14**: GENERAL EXCEPTIONS**

Section 191***: Statutory provisions***

Effect

605. This section gives effect to Schedule 22, which allows differential treatment which would otherwise be made unlawful by specific parts of the Act, where that is required by law. It also allows differential treatment of pregnant women for their own protection, and allows people of particular religions or beliefs to be appointed to specified educational posts. It also allows rules about Crown employment to provide for differential treatment on the basis of nationality.

Section 192***: National security***

Effect

606. This section ensures that the Act does not make it unlawful to do anything which is proportionate in order to safeguard national security.

Background

607. The section replaces similar exceptions in previous legislation, narrowing those which excuse disability discrimination in some areas or sex discrimination. For the first time, it provides a national security exception in relation to age and sexual orientation discrimination outside work.

Example

- Denying people of a particular nationality access to sensitive information is not unlawful race discrimination under the Act if it is proportionate in order to guard against terrorist attacks.

Section 193**: Charities**

Effect

608. This section allows charities to provide benefits only to people who share the same protected characteristic (for example sex, sexual orientation or disability), if this is in line with their charitable instrument and if it is objectively justified or to prevent or compensate for disadvantage. It remains unlawful for them to limit their beneficiaries by reference to their colour — and if they do their charitable instrument will be applied as if that limitation did not exist.

609. Charities must not restrict benefits consisting of employment, contract work or vocational training to people who share a protected characteristic, except that the section does allow people to provide, and the Government to agree, arrangements for supported employment only for people with the same disability, or disabilities of a description to be set out in regulations.

610. The section also allows certain charities to make acceptance of a religion or belief a condition of membership, and to refuse members access to benefits if they do not accept a religion or belief where membership itself is not subject to such a condition, if they have done so since before 18 May 2005. It also allows single-sex activities for the purpose of promoting or supporting a charity (such as women-only fun-runs), and allows the charity regulators to exercise their functions in a charity's interests, taking account of what is said in its charitable instrument, without contravening the Act.

Background

611. This section replaces and harmonises separate exceptions in previous legislation allowing charities to benefit only people of the same sex, racial group, religion or belief or sexual orientation, and creates new exceptions along these lines for charities benefiting only people of the same age group or with the same disability. This section also replicates the effect of other exceptions for charities in previous discrimination law, and creates a new exception in subsection (7) allowing participation in activities to promote or support charities to be restricted to men or women.

Examples

- It is lawful for the Women's Institute to provide educational opportunities only to women.
- It is lawful for the RNIB to employ, or provide special facilities for, visually impaired people in preference to other disabled people.
- A charitable instrument enabling the provision of benefits to black members of a community actually enables the benefits to be provided to all members of that community.
- It is lawful for the Scout Association to require children joining the Scouts to promise to do their best to do their duty to God.
- Race for Life, a women-only event which raises money for Cancer Research UK, is lawful.

Section 194***: Charities: supplementary***

Effect

612. This section makes it clear that section 193 does not allow charities to restrict their benefits to people because of colour.

613. It explains what is meant by “charity” and related expressions used in section 193.

Section 195***: Sport***

Effect

614. This section allows separate sporting competitions to continue to be organised for men and women where physical strength, stamina or physique are major factors in determining success or failure, and in which one sex is generally at a disadvantage in comparison with the other. It also makes it lawful to restrict participation of transsexual people in such competitions if this is necessary to uphold fair or safe competition, but not otherwise.

615. In addition, this section allows the existing selection arrangements of national sports teams, regional or local clubs or related associations to continue. It also protects “closed” competitions where participation is limited to people who meet a requirement relating to nationality, place of birth or residence.

Background

616. This section replaces similar provisions in previous legislation.

Examples

- It would be lawful to have men and women, though not necessarily younger boys and girls, compete in separate 100 metre races.
- It would be lawful to require participants in a county tennis championship to have been born in that county or to have lived there for a minimum period prior to the event.

Section 196***: General***

Effect

617. This section gives effect to Schedule 23, which contains a number of general exceptions to the prohibitions against discrimination and harassment, covering acts authorised by statute or the Government, organisations relating to religion or belief, communal accommodation and training provided to people who are not resident in the European Economic Area.

Section 197***: Age***

Effect

618. This section enables a Minister of the Crown to make orders setting out exceptions to the prohibition on discriminating against people because of age, except in relation to work and further and higher education. These exceptions can relate to particular conduct or practices, or things done for particular purposes, or things done under particular arrangements, as set out in any order made under this power. Orders can provide for a Minister of the Crown or the Treasury to issue guidance, for consultation about the guidance, and for the imposition of requirements that refer to the guidance. Any guidance will come into force at a date specified in a further order subject to the negative procedure so that Parliament has the opportunity to consider the particular use of the guidance power

Background

619. This is a new provision designed to allow exceptions to be made from the new prohibitions on age discrimination in the provision of services and the exercise of public functions.

Examples

620. Appropriate age-based treatment may include the following:

- concessionary travel for older and young people;
- disease prevention programmes such as cancer screening targeted at people in particular age groups on the basis of clinical evidence;
- age differences in the calculation of annuities and insurance programmes which are reasonable and based on adequate evidence of the underlying difference in risk;
- holidays for particular age groups.

PART 15**: FAMILY PROPERTY**

Section 198***: Abolition of husband's duty to maintain wife***

Effect

621. This section abolishes the common law duty of a husband to maintain his wife.

Background

622. The husband's common law duty to provide his wife with the necessities of life was a consequence of now obsolete rules of law which prevented the wife from having capacity to hold property and to enter into contracts. There is no equivalent common law duty for a wife to maintain her husband. There are, however, now adequate statutory provisions requiring both spouses to maintain each other. The common law duty to maintain has little if any practical application.

Example

- Either party to a marriage can apply to the court for a financial provision order against the other party under the Domestic Proceedings and Magistrates' Courts Act 1978 or the Matrimonial Causes Act 1973 on the grounds that his or her spouse has failed to provide reasonable maintenance for them or for any child of the family. There will no longer be any additional common law requirement for a husband to maintain his wife.

Section 199***: Abolition of presumption of advancement***

Effect

623. This section abolishes the common law presumption of advancement. The abolition does not affect any transfer made before the provision comes into force.

Background

624. The presumption of advancement was a presumption that a man who transfers property to his wife, child or fiancée is making the recipient a gift of that property, unless there was evidence to the contrary. This presumption acted as an exception to the normal rule — that where one person transfers property to another without gaining anything in return, the recipient is presumed to be holding the property on trust for the transferor unless there is evidence that a gift was intended.

625. The presumption of advancement did not apply where a woman transferred property to her husband, child or fiancé.

Example

- A husband transfers property to his wife. It is presumed that she is to hold the property on trust for her husband, unless there is evidence that a gift was intended.

Section 200***: Amendment of*** Married Women's Property Act 1964

Effect

626. This section amends section 1 of the Married Women's Property Act 1964 so that money and property derived from a housekeeping allowance will, in the absence of an agreement to the contrary, be owned by the husband and wife in equal shares regardless of who paid or received the allowance. The provision does not apply to any allowance paid before it comes into force.

Background

627. Under the Married Women's Property Act 1964, if a husband paid a housekeeping allowance to his wife, any money or property derived from the allowance (in the absence of an agreement to the contrary) was treated as belonging to the husband and wife in equal shares. But the 1964 Act was silent on housekeeping allowances paid by a wife to her husband.

Example

- A wife pays her husband a housekeeping allowance. Unless they agree otherwise, the allowance and any property bought from it will be shared equally.

Section 201***: Civil partners: housekeeping allowance***

Effect

628. This section inserts a new section 70A into the Civil Partnership Act 2004. The new section applies section 1 of the Married Women's Property Act 1964 (as amended by this Act) to allowances paid by civil partners so that money and property derived from a housekeeping allowance is to be treated as belonging to both civil partners in equal shares.

Background

629. The Civil Partnership Act 2004 replicates most of the legal provisions relating to husbands and wives. However, as long as the provisions of section 1 of the Married Women's Property Act 1964 were gender specific, in that they only dealt with housekeeping allowances made by a husband to his wife and not allowances made by either spouse, it was not possible to replicate them for civil partners.

Example

- A woman pays her civil partner a housekeeping allowance. Unless they agree otherwise, the allowance and any property bought from it will be shared equally.

PART 16**: GENERAL AND MISCELLANEOUS**

Section 202***: Civil partnerships on religious premises***

Effect

630. 1. This section amends section 6 of the Civil Partnership Act 2004, by repealing the prohibition on civil partnerships being registered in religious premises in England and Wales and repealing the definition of "religious premises".

631. 2. This section also amends section 6A of the Civil Partnership Act 2004, which contains a power to make regulations about the approval of premises for the registration of civil partnerships, by making clear that such regulations may provide for different premises to be approved for registration of civil partnerships from those approved for registration of civil marriages, and for different provision to be made for different kinds of premises. In particular it enables the regulations to set out, in relation to particular denominations, who has the authority to decide whether civil partnerships can be registered on any of their premises, and makes clear that nothing in the Civil Partnership Act 2004 obliges any religious organisation to host civil partnerships if they do not wish to.

632. 3. It also inserts into section 6A definitions of "civil marriage" and "religious premises". Both definitions are the same as existing definitions in the Civil Partnership Act 2004.

Background

633. 4. The Civil Partnership Act 2004 included an express prohibition on civil partnership registrations taking place in religious premises. The regulations governing the approval of premises for the registration of civil partnerships are the Marriages and Civil Partnerships (Approved Premises) Regulations 2005. They currently align provision for civil partnerships with that for civil marriage.

Examples

- Regulations under section 6A could provide that, for example, Church of England premises may be approved for the registration of civil partnerships only with the consent of the General Synod of the Church of England.
- A couple seeking to register their civil partnership in a church that had not been approved for that purpose could not require those responsible for the church to allow them to hold the registration there. Nor could they require the denomination responsible for the church to seek approval to enable this.

Section 203***: Harmonisation***

Effect

634. This section enables a Minister of the Crown by order to amend the Act and the Equality Act 2006, to ensure consistency across the legislation where changes required by European law would otherwise result in inconsistent provision. Section 2(2)(a) of the European Communities Act 1972 allows a Minister by regulations or order to give effect to a right or obligation arising out of an EU law provision. Where provisions of this Act and equality law of the UK more generally deal with a sector on a single basis some of the matters covered may not be within the reach of EU law and so outside section 2(2)(a). This arises for instance in the case of nationality and colour which are not dealt with under the EU law provisions on race discrimination but are covered by the UK provisions. Section 2(2)(b) of the European Communities Act 1972 would not allow amendment of all relevant parts of the legislation in these circumstances, because the change required in respect of, say nationality or colour, would not be consequential on or arising out of the EU obligation. In

order to retain the unitary approach to discrimination law it is necessary to have a power such as this so that in appropriate cases amendments can also be made to those areas of the Act unaffected by new EU law obligations.

635. A Minister may use this power only after consulting interested parties on the Government's proposals; and where the consultation prompts the Minister to consider changes to those proposals, these changes must be the subject of such further consultation as the Minister considers appropriate. Following the consultation, the Minister must act in accordance with the requirements in section 204.

636. A Minister must report to Parliament every two years on the use of this power.

Background

637. This is a new provision designed to ensure that the areas of the Act that are covered by European law and those that are domestic in origin do not get out of step, as was the case with the previous legislation.

Example

- A future European Court of Justice judgement on the Race Directive requires an amendment to alter the definition of indirect discrimination. This power could be used to ensure that any such amendment applies to the "colour and nationality" elements of race in the Act, as well as those in relation to which EU law applies.

Section 204***: Harmonisation: procedure***

Effect

638. This section sets out the procedure to be followed by a Minister following a consultation under section 203.

639. The Minister must lay an explanatory report on the consultation findings alongside any draft order being laid before each House of Parliament for debate and approval. The explanatory report must include the reasons for making harmonising provision, and why the conditions for using the power in section 203 are satisfied. It must also set out details of the consultation, the responses and any changes that were made in response to them. This section also provides protection against disclosure of information in representations provided on a confidential basis.

640. A Minister must not lay any instrument before Parliament until the minimum consultation period of 12 weeks has expired.

Section 205***: Crown application***

Effect

641. This section sets out how the Act applies to Ministers, government departments and certain statutory bodies — collectively known as the Crown. The section does not affect the Sovereign in her private capacity.

Background

642. This section replicates the effect of similar provisions in previous legislation. The principle is that the machinery of government, both elected and administrative, should be subject to the Act in the same way as everybody else, unless there are good reasons for it not being. The section also replicates the arrangements in the previous discrimination legislation for taking proceedings against the Crown.

Example

- A government department as employer must not discriminate against an employee because of race; just as any other employer is prohibited from doing so under the Act.

Section 206***: Information society services***

Effect

643. This section gives effect to Schedule 25, which applies the Act to information society service providers established in Great Britain (see the explanatory notes to Schedule 25).

Background

644. The provisions in Schedule 25 are new.

Section 207***: Exercise of power***

Effect

645. This section makes provision for the powers to make secondary legislation under the Act. Unless it is stated otherwise, they will be exercised by a Minister of the Crown and be statutory instruments. It also provides that orders and regulations may deal with different situations differently and include consequential and other provisions dealing with transition to the new provisions.

646. In some cases, the power to make consequential provision can be exercised to amend an enactment, including in relation to section 197 (age) and section 216 (commencement) of this Act. For example, this power would enable a consequential amendment to be made to this Act where it is necessary to update a reference to other legislation that has been passed since this Act received Royal Assent but before it comes into force.

647. The section also enables matters that need to be dealt with on commencement of a particular section, such as transitional provisions and consequential amendments, to be dealt with in more than one order and, if necessary, at different times and by different procedures. For example, it would enable consequential amendments to primary legislation, which require an affirmative resolution, to be dealt with in a separate commencement order or orders from other provisions which do not require a parliamentary procedure.

648. This section also provides that the negative parliamentary procedure applies to an Order in Council made under section 82.

Background

649. As with any Act delegating the power to legislate, this section is needed to set out the arrangements for how Ministers are to exercise such delegated power. This is a large Act with a number of provisions that confer power to amend primary legislation. Much of the Act involves consolidation and harmonisation of previous legislation, so that the range of possible consequential amendments is likely to be limited. It is thought convenient to specify in one place those powers to amend primary legislation that include a power to make consequential amendments to primary legislation. It is also thought that having a general broad power of the kind often found in other legislation would create duplication in those cases where it is considered that power to make consequential amendments is required and might raise doubt in those cases where it is not. The power in the form used in this Act allows for separate orders for consequential amendments and will in practice produce the same result as a general consequential power of the usual kind would.

Section 208***: Ministers of the Crown, etc.***

Effect

650. This section establishes which parliamentary procedures apply to the regulations and orders which can be made by Ministers of the Crown or the Treasury under the Act.

Background

651. In common with any Act containing powers to make secondary legislation, this section is needed to set out the arrangements for how Parliament is to control the use of powers in the Act. It provides for any instrument amending any Act of Parliament (including this Act), any Act of the Scottish Parliament or Act or Measure of the Welsh Assembly to be made only using the affirmative resolution procedure. There are some exceptions. In a few other cases (for example, where regulations under section 78 are made to introduce a requirement on employers to publish their gender pay gap), the affirmative resolution procedure must also be used and the relevant order or regulations must be approved by both Houses of Parliament before they can come into force.

Section 209***: The Welsh Ministers***

Effect

652. This section establishes the parliamentary procedures that apply to regulations and orders under the Act made by Welsh Ministers.

653. A few instruments, including those which impose the socio-economic duty or the public sector equality specific duties on public authorities or cross-border authorities, must be considered by the National Assembly for Wales before they can come into force. The rest do not automatically need to be considered by the Assembly but in most cases they can be opposed, in which case a debate may be held.

Background

654. In common with any Act containing powers to make secondary legislation, this section is needed to set out who is to make regulations and orders (usually a Minister), how their effect may vary according to particular circumstances and the arrangements for Assembly control over their exercise.

Section 210***: The Scottish Ministers***

Effect

655. This section establishes the parliamentary procedures that apply to regulations and orders under the Act made by Scottish Ministers.

656. A few instruments, including those which impose the socio-economic duty or public sector equality specific duties on public authorities or cross-border authorities, must be debated by the Scottish Parliament before they can come into force. The rest do not automatically need to be debated by the Scottish Parliament but in most cases they can be opposed, in which case a debate may be held.

Background

657. In common with any Act containing powers to make secondary legislation, this section is needed to set out who is to make regulations and orders (usually a Minister), how their effect may vary according to particular circumstances and the arrangements for parliamentary control over their exercise.

Section 211***: Amendments, repeals and revocations***

Effect

658. This section gives effect to Schedules 26 and 27. Schedule 26 contains amendments to other primary legislation which are necessary as a consequence of the Act's provisions. Schedule 27 lists the provisions in previous legislation which will cease to have effect when the relevant provisions of the Act are brought into force.

Section 212***: General interpretation***

Effect

659. This section explains what is meant by various words and phrases which appear in more than one Part of the Act.

Background

660. While a key objective of the Act is to present discrimination law in plain language and most words used in the Act have an ordinarily obvious meaning, it is sometimes necessary to make clear the specific legal meaning of some words and phrases that are used several times in the Act.

661. Subsection (5), which expands the meaning of “detriment” in subsection (1), makes clear that although the express prohibition of sexual orientation harassment does not apply for example to schools, a pupil who is bullied by a school employee as a result of his or her sexual orientation may nevertheless bring a claim of direct discrimination if the bullying caused the pupil to suffer a “detriment”.

662. Other important words and phrases appear in only one Part or Chapter of the Act. Where necessary these are defined in the Part or Chapter where they appear. Others are not defined at all, either because they are clear, or because they are to be interpreted in accordance with the Interpretation Act 1978.

Section 213***: References to maternity leave, etc.***

Effect

663. This section explains what is meant by the different periods of maternity leave which are referred to in the Act.

Background

664. The rights of female employees to statutory maternity leave are provided for in the Employment Rights Act 1996. Compulsory maternity leave, ordinary maternity leave and additional maternity leave are the three types of maternity leave provided for in sections 72(1), 71(1) and 73(1) of that Act respectively.

Section 214***: Index of defined expressions***

Effect

665. This section gives effect to Schedule 28, which provides an index of the expressions that are defined in the Act.

Section 215***: Money***

Effect

666. This section is included to comply with rules of procedure on financial matters. It does not, of itself, authorise expenditure that is not covered elsewhere in the Act.

Section 216***: Commencement***

Effect

667. This section sets out when provisions of the Act come into effect. Certain provisions came into force automatically on the day on which the Act received Royal Assent, for example the sections relating to commencement, short title, subordinate legislation and interpretation. The rest of the Act will be brought into force by commencement orders made by a Minister of the Crown with the exception of the sections related to family property (Part 15) which will be brought into force by a commencement order made by the Lord Chancellor. The orders will set out the date on which specific provisions start to have legal effect.

Section 217***: Extent***

Effect

668. This section explains that all of the provisions of the Act are part of the law of England and Wales.

669. All of the provisions of the Act, except for section 190 (improvements to let dwelling houses) and Part 15 (family property), are also part of the law of Scotland.

670. In relation to Northern Ireland, the Act is not part of Northern Ireland's law, except for the following:

- Section 82 (offshore work);
- Section 105(3) and (4) (expiry of Sex Discrimination (Election Candidates), Act 2002);
- Section 199 (abolition of presumption of advancement).

Section 218***: Short title***

Effect

671. This section sets out the short title of the Act.

Schedule 1***: Disability: supplementary provision***

Effect

672. Part 1 of this Schedule clarifies the definition of disability in section 6 and provides a number of regulation-making powers to enable the definition to be amended at a later date if required.

673. Part 2 describes what can be included in guidance about the definition of disability and prescribes adjudicating bodies which are obliged to take account of guidance, the role of Ministers in developing and publishing guidance and the associated parliamentary procedures.

Background

674. This Schedule replaces similar provisions in the Disability Discrimination Act 1995. However, the Act introduces one change by removing a requirement to consider a list of eight capacities, such as mobility or speech, hearing or eyesight, when considering whether or not a person is disabled. This change will make it easier for some people to demonstrate that they meet the definition of a disabled person. It will assist those who currently find it difficult to show that their impairment adversely affects their ability to carry out a normal day-to-day activity which involves one of these capacities.

Example

675. A man with depression finds even the simplest of tasks or decisions difficult, for example getting up in the morning and getting washed and dressed. He is also forgetful and can't plan ahead. Together, these amount to a "substantial adverse effect" on his ability to carry out normal day-to-day activities. The man has experienced a number of separate periods of this depression over a period of two years, which have been diagnosed as part of an underlying mental health condition. The impairment is therefore considered to be "long-term" and he is a disabled person for the purposes of the Act.

Schedule 2***: Services and public functions: reasonable adjustments***

Effect

676. This Schedule explains how the duty to make reasonable adjustments in section 20 applies to a service provider or person exercising a public function where a disabled person is placed at a substantial disadvantage. It includes definitions of "substantial disadvantage" and "physical features" and stipulates that the duty does not require fundamental changes to the nature of the service. As the duty is owed to disabled persons generally, it is an anticipatory duty which means service providers and people exercising public functions must anticipate the needs of disabled people and make appropriate reasonable adjustments.

677. This Schedule also explains how the duty to make reasonable adjustments in section 20 applies to operators of transport vehicles. It specifies that the duty applies in different ways to different types of vehicle. It provides that a transport service provider is not required to make adjustments to the physical features of vehicles or to whether vehicles are provided, except in specified circumstances. It provides a power to make regulations to allow further amendments to be made to this paragraph in the future.

Background

678. This Schedule replaces similar provisions in the Disability Discrimination Act 1995.

Examples

- The manager of a large shop in a national chain installs a ramp, automatic entry doors, hearing induction loops and waives the "no dogs policy" in respect of assistance dogs, to comply with the duty to make reasonable adjustments.
- A police officer is carrying out a public function when interviewing a witness who is deaf. Arranging a British Sign Language / English interpreter for the interview might be a reasonable adjustment to make.
- It might be a reasonable adjustment for a rail service provider to arrange an alternative catering service for disabled people who cannot get to the buffet or dining car, or to provide assistance from staff where passengers have a sensory or physical impairment.

Schedule 3***: Services and public functions: exceptions***

679. This Schedule sets out exceptions from the prohibitions on discriminating against, harassing or victimising a person when providing services or exercising a public function set out in section 29 of the Act.

Part 1*: Constitutional matters:* paragraphs 1–5

Effect

680. Part 1 of this Schedule provides that the prohibitions do not apply to:

• the exercise of parliamentary functions and functions linked to the undertaking of parliamentary business;
• preparing, making, approving or considering primary legislation or particular forms of secondary legislation, including legislation of the Scottish Parliament and the National Assembly for Wales;
• exercising judicial functions or deciding not to commence or continue criminal proceedings.

681. Part 1 also provides that the prohibition on discriminating against a person when exercising a public function does not apply to the armed forces in respect of the protected characteristics of age, disability, gender reassignment and sex when the reason for such acts is to ensure combat effectiveness.

682. It also provides that the prohibitions on discriminating against, harassing or victimising a person when providing a service or exercising a public function do not apply to the Security Service, the Security Intelligence Service, the Government Communications Headquarters (GCHQ) or any part of the armed forces assisting GCHQ.

Background

683. Part 1 of this Schedule is designed to replicate the effect of exceptions contained in previous legislation where discrimination, harassment and victimisation in the exercise of a public function are already prohibited, and apply the exception to relevant protected characteristics.

Examples

• Activity related to the preparation and making of primary legislation, such as this Act, would be excepted from the prohibition on discrimination. However, activity related to the making of a bye-law by a local authority would not be within the exceptions in this Schedule.
• A decision of a judge on the merits of a case would be within the exceptions in this Schedule. An administrative decision of court staff, about which contractor to use to carry out maintenance jobs or which supplier to use when ordering stationery would not be.

Part 2*: Education*

Education: paragraph 6

Effect

684. Paragraph 6 provides that the prohibitions on discrimination in Part 3 do not, so far as they relate to age, or religion or belief, apply to a local authority performing its function under sections 13 and 14 of the Education Act 1996, which relate to providing primary and secondary schools for children in a given catchment area.

Background

685. Similar exceptions for religion or belief were in the Equality Act 2006. The age exceptions are new because of the extension of age discrimination law in this Act.

686. The reason for the provision in paragraph 6 is to prevent a local authority being bound to provide schools for pupils of different faiths, or no faith, or for particular age groups, in every catchment area.

Examples

• Catholic parents will not be able to claim that their local authority is discriminating unlawfully if there is no Catholic school in their catchment area, or if there are fewer places in Catholic schools than in Church of England schools.

• Parents of secondary age children will not be able to claim that it is age discrimination if their children have to travel further than younger ones to reach their school.

Education: paragraph 7

Effect

687. Paragraph 7 makes similar provision for Scotland as is made by paragraph 6 for England and Wales.

Education: paragraph 8

Effect

688. This paragraph provides an exception from the prohibition on sex discrimination in Part 3 in relation only to the establishment of a school. A local authority will not be prevented from establishing single-sex schools, but must provide similar numbers of places for boys and girls.

Background

689. This provision is designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Education: paragraph 9

Effect

690. Paragraph 9 excepts from the prohibition on age discrimination in Part 3 (to the extent that it is not excepted elsewhere), the exercise by any public authority of functions in a number of areas that relate to schools.

Background

691. These exceptions ensure that policies and practices which relate to things which schools are allowed to do under the Act do not become unlawful when carried out by public authorities.

Examples

• School admissions policies can continue to be based on the ages of prospective pupils.
• School transport can be provided for children of a particular age only.

Education: paragraph 10

Effect

692. Paragraph 10 provides an exception for local authorities from the provisions requiring reasonable adjustments in Part 3, in respect of their activities in relation to school education, from the requirement to alter physical features of premises when making reasonable adjustments for disabled people.

Background

693. These exceptions are designed to replicate the effect of provisions in the Disability Discrimination Act 1995 and ensure that local authorities, when carrying out their education functions, do not have to take account of altering physical features since such things will fall within the requirements on them to produce accessibility strategies as set out in Schedule 12. This mirrors the requirements placed on schools themselves.

Education: paragraph 11

Effect

694. Paragraph 11 provides an exception from the prohibition on religious or beliefrelated discrimination in Part 3 (to the extent that it is not excepted elsewhere), in relation to the exercise by any public body of functions in a number of areas that relate to faith and non-faith educational institutions. In relation to all schools those areas are the curriculum, collective worship, school transport and the establishment, alteration and closure of schools; and in relation to schools which have a religious ethos the exception also applies to admission of pupils and the responsible body of such a school.

Background

695. This provision is designed to replicate the effect of provisions in Part 2 of the Equality Act 2006. It ensures that policies and practices which relate to things which schools are allowed to do under the Act do not become unlawful when carried out by public authorities.

Examples

- A public body will not be open to claims of religious discrimination as a result of its decision to establish, alter or close a faith school.
- A local authority can select a person of a particular religion or belief to be a governor of a school with a religious ethos.

Part 3*: Health and care*

Blood services: paragraph 13

Effect

696. Paragraph 13 provides that it is not unlawful for a person operating a blood service to refuse to accept someone's donation of blood provided they have reliable evidence that accepting it would put the public or the individual donor at risk and that such a refusal would not be unreasonable.

697. A blood service is a service that collects donations of human blood and blood components to use for medical purposes, for example the NHS Blood and Transplant Special Health Authority.

698. “Blood” includes components, for instance plasma or red blood cells.

Background

699. This provision is designed to replicate the effect of Regulation 28 of the Equality Act (Sexual Orientation) Regulations 2007, and extend the exception to the other protected characteristics. It also provides that a refusal to allow somebody to donate blood or blood components because of a risk to the donor's own health would not be unlawful.

Examples

- If there is evidence that people who have been sexually active in a particular country are more likely to be infected with HIV, the operator of the blood service can refuse to accept donations of blood or blood components from people who have been sexually active there, even if that disproportionately affects members of a particular nationality and so might otherwise be unlawful indirect discrimination because of race.
- If there is evidence that women who have recently given birth are likely to suffer detrimental effects from giving blood or blood components, then a blood service can refuse to accept donations from them. This would not be unlawful direct discrimination because of maternity.

Health and safety: paragraph 14

Effect

700. Paragraph 14 provides that it is not unlawful for a person to discriminate against a pregnant woman by refusing to provide her with a service or only providing the service to her on certain conditions if he or she reasonably believes that to do otherwise would create a risk to her health or safety and he or she would take similar measures in respect of persons with other physical conditions.

Background

701. Provisions making it unlawful for a person to discriminate against a pregnant woman in the provision of services were introduced into the Sex Discrimination Act 1975 by the Sex Discrimination Act 1975 (Amendment) Regulations 2008. Those provisions contained an equivalent exception on health and safety grounds.

Examples

- A leisure centre could refuse to allow a pregnant woman to use certain gym equipment (for example, a rowing machine) after a certain point in her pregnancy if it reasonably believed that allowing her to use the equipment would create a risk to her health and safety and it would also refuse, for example, to allow a man with a serious heart condition to use the equipment.
- An airline could refuse to allow a pregnant woman to travel beyond her 35th week of pregnancy if it reasonably believed that allowing her to travel would create a risk to her health and safety and it would also refuse people with other physical conditions that affect their health and safety to travel.

Care within the family: paragraph 15

Effect

702. Paragraph 15 is designed to ensure that people who provide foster care, or other similar forms of care, in their own home are not subject to the prohibitions on discriminating against, harassing or victimising a person in the provision of services while providing that care.

703. It applies irrespective of whether or not the person is paid for providing the care service.

Background

704. Similar provisions existed in previous legislation for race, religion or belief and sexual orientation. This provision extends the exception to all of the protected characteristics.

Examples

- A Muslim family could choose to foster only a Muslim child. This would not constitute discrimination against a non-Muslim child.
- A woman who is the main carer for her mother decides to provide care for another person too, and decides to restrict any offer of care to another woman. This would not constitute discrimination against a man who needed similar care.

Part 4*: Immigration*

Disability: paragraph 16

Effect

705. Paragraph 16 provides an exception from the prohibition on discriminating against a person when providing a service or exercising a public function because he or she has a disability, in relation to certain immigration decisions, including making a decision not to allow someone to enter the country or a decision not to allow him or her to remain in the country. However, this exception only applies where the decision is necessary for the public good.

Background

706. This is a new exception. An express exception was not previously needed since the Disability Discrimination Act 1995 did not prohibit direct disability discrimination in the provision of services or exercise of a public function and because disability-related discrimination, which did apply to the provision of services or exercise of a public function, could be justified if it was necessary for a number of reasons, including not to endanger the health or safety of any person.

Nationality and ethnic or national origins : paragraph 17

Effect

707. Paragraph 17 provides an exception from the prohibition on discriminating against a person in the provision of services or the exercise of a public function because of his or her ethnic or national origins or nationality, in relation to the exercise of immigration functions.

Background

708. This is designed to replicate the effect of a provision in the Race Relations Act 1976.

Examples

- Different visa requirements for nationals of different countries, which arise for a variety of historical and political reasons, do not constitute unlawful race discrimination.
- Granting asylum to members of a minority ethnic group being targeted by the majority ethnic group in a country would similarly not be unlawful discrimination.

Religion or belief: paragraph 18

Effect

709. Paragraph 18 provides an exception from the prohibition on discriminating against a person in the provision of services or the exercise of a public function because of their religion or belief in relation to decisions not to allow someone to enter the country or to remove someone from the country, if that decision is made on the grounds that it is conducive to the public good to exclude that person from the country or it is not desirable to permit the person to remain in United Kingdom.

710. It also provides an exception for decisions relating to an application for entry clearance or leave to enter to cover people entering the country to provide services in connection with religion or belief, such as a Minister or clergyman.

Background

711. This is designed to replicate the effect of provisions in the Equality Act 2006.

Examples

- The immigration services may differentiate between certain religious groups in order to allow a person such as a minister of religion to enter the UK to provide essential pastoral services, without being challenged by groups which could operate against the public interest, but which might also claim to represent a religion.

• A decision to prevent a person who holds extreme religious views from entering or remaining in the country if his or her presence is not conducive to the public good, for example, preachers who use the pulpit to incite violence, would not constitute unlawful discrimination because of religion or belief.

Part 5*: Insurance, etc.*

Services arranged by employer: paragraph 20

Effect

• Paragraph 20 provides an exception to section 29 (provision of services, etc) for group insurance schemes and group personal pensions ("group schemes"). As group schemes are offered to employees as part of the employment relationship:
• the employer is responsible for ensuring that the provision of benefits under group schemes complies with the requirements of Part 5 (work); and
• the insurer or pension provider is not responsible for ensuring that the provision of benefits complies with the requirements of Part 3 (services and public functions).

Background

712. Group policies and schemes are arrangements between an employer and an insurer for the benefit of the employees, their partners and their dependants. They are entered into not on the basis of the individual characteristics of each employee but on the basis of the employer's business and the profile of the employees. Employees can sign up to the benefits under such policies on standard terms that are the same for all employees. This is a new provision but one that reflects current practice.

Example

713. An employer enters into a contract with an insurer for the provision of health insurance to employees. As the health insurance is part of the package of benefits provided by the employer to the employee, the employer must ensure that the provision complies with Part 5. So, if benefits under the health insurance policy differ between men and women, the employer may have to justify the difference by reference to paragraph 20 of Schedule 9 (insurance contracts, etc.).

Disability: paragraph 21

Effect

714. Paragraph 21 provides an exception from the prohibition on discriminating against disabled people in the provision of services connected with insurance business (as defined) where the decision in question is based on relevant and reliable information. It enables insurance providers to offer different premiums and benefits to disabled people where it is reasonable to do so.

Background

715. These provisions are designed to replicate the effect of provisions in the Disability Discrimination (Service Providers and Public Authorities Carrying Out Functions) Regulations 2005. This exception has been carried forward into the Act because it is recognised that insurers may need to distinguish between people on the basis of the risks against which they are insuring. The consensus is that it works well.

Examples

• A disabled person with cancer applies for a life insurance policy. The insurance company refuses to provide life insurance cover based on a medical report from the person's doctor which provides a prognosis on the person's condition.
• An insurer charges higher premiums for travel insurance for a person with a particular disability because actuarial evidence suggests that people with this disability are at increased risk of having a heart attack.

Sex, gender reassignment, pregnancy and maternity: paragraph 22

716. Paragraph 22 provides exceptions to allow insurers to calculate different premiums and benefits for men and women, relating to pregnancy and maternity or gender reassignment on the basis of actuarial data.

717. Sub-paragraph (1) provides an exception for an annuity, life assurance policy, accident insurance policy or similar matter which involves the assessment of risk. Under this exception, the difference in treatment must be done by reference to actuarial or other reliable data, and must be reasonable in all the circumstances. Sub-paragraph (2) applies to a contract of insurance, or for related financial services, entered into before 6 April 2008. In such a case, the exception only applies in relation to differences in premiums and benefits applicable to a person under that contract.

718. Sub-paragraph (3) applies sub-paragraph (1) to contracts of insurance, or for related financial services, entered into on or after 6 April 2008. It permits differences in treatment which are proportionate having regard to relevant and accurate data, which the insurance industry has compiled, published and updated in accordance with Treasury guidance. For contracts entered into on or after 22 December 2008, the differences must not result from costs related to a woman's pregnancy or her having given birth within the previous 26 weeks.

719. Insurers must calculate premiums and benefits based on the sex of the person seeking such services (sub-paragraph (5)).

Background

720. This paragraph is designed to replicate the effect of section 45 of the Sex Discrimination Act 1975 in respect of insurance and financial services. Services relating to premises or education are dealt with under Parts 4 and 6 of the Act.

Example

• An insurer can lawfully quote higher motor insurance premiums for young men if this is based on actuarial and statistical up-to-date data that is published so that customers can see the information that justifies proportionate differences in male and female premiums and benefits.

Existing insurance policies: paragraph 23

Effect

721. Paragraph 23 provides an exception so that insurers will not be discriminating unlawfully if they continue to apply terms of insurance policies entered into before the date on which this paragraph comes into force. Where pre-existing policies are renewed, or have their terms reviewed, on or after the date this paragraph comes into force, the exception no longer applies to them.

Background

722. This paragraph provides an exception for existing insurance policies, which may not comply with subsequently altered discrimination law. But where such a policy is renewed or reviewed, it would need to be amended to meet the requirements of this Act.

Examples

- An existing life insurance policy which was taken out in 1989, and has not been subsequently renewed or reviewed, continues to be lawful and does not have to be altered to comply with current relevant discrimination law.
- A company has a death in service benefit insurance policy for its employees which has been in place for many years and whose terms have not been reviewed. It benefits from the exception unless and until the policy is reviewed or renewed.

Part 6*: Marriage*

Gender reassignment: England and Wales: paragraph 24

Effect

723. Paragraph 24 contains exceptions from the general prohibition of gender reassignment discrimination in section 29 of the Act for the religious solemnisation of marriages.

724. A person with a full Gender Recognition Certificate acquired under the Gender Recognition Act 2004 is able to marry someone of the opposite gender to his or her acquired gender. The Marriage Act 1949 imposes an obligation on a clergyman in the Church of England or a clerk in Holy Orders of the Church in Wales to marry anyone residing in his or her parish, or who fits other stated connection criteria. However, section 5B of that Act contains an exception where the clergyman or clerk reasonably believes one of the parties' gender is acquired under the Gender Recognition Act. The legislation that preceded this Act did not prohibit discrimination because of gender reassignment in the field of public functions. As this Act now prohibits this, paragraph 24 provides an exception for Anglican clergy in England and Wales, as well as those of other faiths in England and Wales whose consent is required to conduct marriages in religious premises registered under the Marriage Act, and others who may solemnise marriages.

Background

725. This paragraph is new. There was previously no prohibition on discriminating against people because of gender reassignment in the exercise of public functions, hence there was no exception in relation to solemnising marriages.

Example

- A clergyman in the Church of England advises an engaged couple that he will not solemnise their marriage as he reasonably believes that one of the couple has acquired his or her gender under the Gender Recognition Act 2004. This would not be unlawful discrimination because of gender reassignment.

Gender reassignment: Scotland: paragraph 25

Effect

726. Paragraph 25, which applies to Scotland, contains a similar exception to paragraph 24.

727. An “approved celebrant” is not obliged to marry a person if he or she reasonably believes the person to have acquired his or her gender under the Gender Recognition Act 2004. An “approved celebrant” is a person defined in the Marriage (Scotland) Act 1977 as a person entitled under that Act to solemnise religious marriages.

Background

728. This paragraph is new. There is currently no prohibition on discriminating against people because of gender reassignment in the exercise of public functions, hence there is no exception in relation to solemnising marriages.

Example

• A Roman Catholic priest, who is recognised as an "approved celebrant" in Scotland, advises an engaged couple that he will not solemnise their marriage as he reasonably believes that one of the couple has acquired his or her legal gender under the Gender Recognition Act 2004. This would not be unlawful discrimination because of gender reassignment.

Part 7*: Separate and single services*

Separate services for the sexes: paragraph 26

Effect

729. This paragraph contains exceptions to the general prohibition of sex discrimination which allow the provision of separate services for men and women.

730. A provider can deliver separate services for men and women where providing a combined service would not be as effective. A provider can deliver separate services for men and women in different ways or to a different extent where providing a combined service would not be as effective and it would not be reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex. In each case such provision has to be justified.

731. The exceptions also cover the exercise of public functions in respect of the "back-room" managerial, administrative and finance decisions which allow separate services to be provided.

Background

732. This paragraph replaces similar provisions in the Sex Discrimination Act 1975 that only cover public functions. The exceptions have been extended to cover all services, whether privately or publicly provided.

Example

• It would not be unlawful for a charity to set up separate hostels, one for homeless men and one for homeless women, where the hostels provide the same level of service to men and women because the level of need is the same but a unisex hostel would not be as effective.

Single-sex services: paragraph 27

Effect

733. This paragraph contains exceptions to the general prohibition of sex discrimination to allow the provision of single-sex services.

734. Single sex services are permitted where:

• only people of that sex require it;
• there is joint provision for both sexes but that is not sufficient on its own;
• if the service were provided for men and women jointly, it would not be as effective and it is not reasonably practicable to provide separate services for each sex;
• they are provided in a hospital or other place where users need special attention (or in parts of such an establishment);

• they may be used by more than one person and a woman might object to the presence of a man (or vice versa); or
• they may involve physical contact between a user and someone else and that other person may reasonably object if the user is of the opposite sex.

735. In each case, the separate provision has to be objectively justified.

736. These exceptions also cover public functions in respect of the "back-room" managerial, administrative and finance decisions which allow such single-sex services to be provided.

Background

737. This paragraph replaces some similar provisions that only covered public functions and some that applied to services in the Sex Discrimination Act 1975. These exceptions have been extended to cover both services and public functions.

Examples

738. These exceptions would allow:
• a cervical cancer screening service to be provided to women only, as only women need the service;
• a fathers' support group to be set up by a private nursery as there is insufficient attendance by men at the parents' group;
• a domestic violence support unit to be set up by a local authority for women only but there is no men-only unit because of insufficient demand;
• separate male and female wards to be provided in a hospital;
• separate male and female changing rooms to be provided in a department store;
• a massage service to be provided to women only by a female massage therapist with her own business operating in her clients' homes because she would feel uncomfortable massaging men in that environment.

Gender reassignment: paragraph 28

Effect

739. This paragraph contains an exception to the general prohibition of gender reassignment discrimination in relation to the provision of separate- and single-sex services. Such treatment by a provider has to be objectively justified.

Background

740. This paragraph replaces a similar provision in the Sex Discrimination Act 1975.

Example
• A group counselling session is provided for female victims of sexual assault. The organisers do not allow transsexual people to attend as they judge that the clients who attend the group session are unlikely to do so if a male-to-female transsexual person was also there. This would be lawful.

Services relating to religion: paragraph 29

Effect

741. This paragraph contains an exception to the general prohibition of sex discrimination to allow ministers of religion to provide separate and single-sex services.

742. The minister can provide such services so long as this is done for religious purposes, at a place occupied or used for those purposes and it is either necessary to comply with the tenets of the religion or for the purpose of avoiding conflict with the strongly held religious views of a significant number of the religion's followers. This does not apply to acts of worship (which are not themselves "services" within the meaning of the Act so no exception is required).

Background

743. This paragraph replaces a similar provision in the Sex Discrimination Act 1975. The requirement regarding avoiding conflict with the religion's followers has been altered in order to give consistency within the Act and some explanatory provisions have been added for the same reason.

Example

- A synagogue can have separate seating for men and women at a reception following a religious service.

Services generally provided only for persons who share a protected characteristic: paragraph 30

Effect

744. Paragraph 30 provides that a service provider does not breach the requirement in section 29 not to discriminate in the provision of a service if he or she supplies the service in such a way that it is commonly only used by people with a particular protected characteristic (for example, women or people of Afro-Caribbean descent) and he or she continues to provide that service in that way. If it is impracticable to provide the service to someone who does not share that particular characteristic, a service provider can refuse to provide the service to that person.

Background

745. This is designed to replicate the effect of provisions previously contained in the Sex Discrimination Act 1975 and the Equality Act 2006, and extends the clarification they provide across all other protected characteristics for the first time.

Examples

- A hairdresser who provides Afro-Caribbean hairdressing services would not be required to provide European hairdressing services as well. However, if a white English person wanted his hair braided and there was no technical difficulty to prevent that, it would be unlawful for the hairdresser to refuse to provide her services to him.
- A butcher who sells halal meat is not required also to sell non-halal meat or kosher meat. However, if a non-Muslim customer wanted to purchase the meat that was on offer, he could not refuse to sell it to her.

Part 8*: Television, radio and on-line broadcasting and distribution*

Paragraph 31

Effect

746. Paragraph 31 makes it clear that claims for discrimination, harassment and victimisation cannot be brought in relation to broadcasting and distribution of content, as defined in the Communications Act 2003. This would include, for example, editorial decisions on the content of a television programme or the distribution of online content.

747. This paragraph does not, however, extend to the provision of an electronic communications network, service or associated facility, which are also defined in the Communications Act 2003.

This will ensure that the act of sending signals is not excluded by the exception in sub-paragraph (1), only the content of what is broadcast.

Background

748. This provision is new and is intended to safeguard the editorial independence of broadcasters when broadcasting or distributing content, whether on television, radio or on-line.

Examples

- An aggrieved person is not entitled to bring a claim for discrimination against a broadcaster in relation to an editorial decision about what programmes to commission; on what day a specific programme should be shown; or who should appear in a particular programme.
- An aggrieved person is, however, entitled to bring a claim for discrimination against a broadcaster in relation to a decision to refuse to send a signal to his house purely on the basis that he has a particular protected characteristic.

Part 9*: Transport*

Application to disability: paragraph 32

Effect

749. Paragraph 32 applies the exceptions listed in paragraphs 33 and 34 in relation to disability, thereby stipulating the extent to which providers of transport services are bound by the disability provisions of the Act.

Background

750. These provisions replicate the effect of provisions contained in the Disability Discrimination Act 1995.

Transport by air: paragraph 33

Effect

751. Paragraph 33(1) provides an exception to the prohibition of discrimination, so far as it relates to disability, in respect of the provision of services in connection with air transport.

752. Paragraph 33(2) ensures that there is no duplication where there would otherwise be an overlap between the disability provisions of the Act and Regulation (EC) No1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air ("EC Regulation 1107/2006").

Background

753. These provisions replicate the effect of provisions in the Disability Discrimination Act 1995.

Examples

- An airline is required to make reasonable adjustments to its booking services to ensure that they are accessible to disabled people. It is not required to make any structural adjustments to the cabin environment inside an aircraft by reason of the derogation in Article 4(1)(a) of EC Regulation 1107/2006.
- An airport owner charges a disabled person for wheelchair assistance to board an aircraft. This would be a breach of EC Regulation 1107/2006, so section 29 of the Act would not apply. However, if the same airport owner fails to make adjustments to allow disabled people to access car parks at the airport, this would fall within the scope of the Act.

Transport by land: paragraph 34

Effect

754. Paragraph 34 provides an exception from section 29 for all services of transporting people by land, except those listed. The definitions of the vehicles listed are contained in paragraph 4 of Schedule 2.

Background

755. This paragraph replicates the effect of provisions in the Disability Discrimination Act 1995.

Example

- A train operating company is required to provide a reasonable alternative when a disabled person is unable to access the buffet car due to his or her disability.

Part 10*: Supplementary*

Power to amend: paragraph 35

Effect

756. Paragraph 35 contains a power for a Minister of the Crown to add, vary, or remove exceptions in this Schedule relating to both services and public functions in respect of disability, religion or belief and sexual orientation. It allows a Minister of the Crown also to add, vary or remove the exceptions that relate to the provision of public functions only, in relation to gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

757. This power cannot, however, be used to omit or reduce the scope of the exceptions in respect of the functions of Parliament; the preparation, making, consideration or approval of legislation; and the functions of the courts which are set out in paragraphs 1 to 3 of this Schedule.

758. In relation to transport by air, a Minister of the Crown can also vary, remove or add exceptions in relation to the provision of services and the exercise of public functions for disability only. For these purposes, it does not matter where the transport in fact takes place.

759. The Minister must consult the Equality and Human Rights Commission before exercising the power under this paragraph.

Background

760. This paragraph broadly reflects the substance of powers contained in previous legislation.

Schedule 4***: Premises: reasonable adjustments***

Effect

761. This Schedule explains how the duty to make reasonable adjustments in section 20 applies to a controller of “let” premises or of premises “to let” and to the commonhold association where a disabled tenant (or prospective tenant) or unitholder in commonhold land or the disabled person legally occupying the property is placed at a substantial disadvantage, so that the disabled person can enjoy the premises or make use of them. It stipulates that the duty does not require the removal or alteration of a physical feature, and makes clear what are not “physical features” for these purposes. The duty only applies if a request for an adjustment is made by or on behalf of a disabled person.

762. This Schedule also explains how the duty to make reasonable adjustments in section 20 applies in relation to “common parts”, for example an entrance hall in a block of flats. These provisions

relate specifically to physical features and set out the process that must be followed by the person responsible for the common parts (for example in England and Wales either a landlord or, in the case of commonhold land, the commonhold association) if a disabled tenant or someone on his or her behalf requests an adjustment. This includes a consultation process with others affected which must be carried out within a reasonable period of the request being made. If the responsible person decides to make an adjustment to avoid the disadvantage to the disabled person, a written agreement must be entered into between them setting out their rights and responsibilities. Section 37 provides the corresponding process for common parts in Scotland.

763. The Schedule also makes it unlawful for a controller or responsible person to victimise a disabled tenant because costs have been incurred in making a reasonable adjustment.

Background

764. This Schedule partly replaces similar provisions in the Disability Discrimination Act 1995. However, the Act introduces a new requirement for disability-related alterations to the physical features of the common parts of let residential premises or premises owned on a commonhold basis.

Examples

- A landlord has a normal practice of notifying all tenants of any rent arrears in writing with a follow-up visit if the arrears are not reduced. A learningdisabled person explains to the landlord that he cannot read standard English so would not be aware that he was in arrears. He asks to be notified of any arrears in person or by telephone. The landlord arranges to visit or telephone the learning-disabled person to explain when he has any arrears of rent. This personal contact may be a reasonable adjustment for the landlord to make.
- A landlord is asked by a disabled tenant to install a ramp to give her easier access to the communal entrance door. The landlord must consult all people he thinks would be affected by the ramp and, if he believes that it is reasonable to provide it, he must enter into a written agreement with the disabled person setting out matters such as responsibility for payment for the ramp. The landlord can insist the tenant pays for the cost of making the alteration.

Schedule 5***: Premises: exceptions***

Effect

765. This Schedule sets out limited exceptions to the prohibitions on discrimination and harassment contained in the premises provisions in Part 4 of the Act.

766. The first exception applies where a person who owns and lives in a property disposes of all or part of it privately (for example by selling, letting or subletting) without using the services of an estate agent, or publishing an advertisement.

767. This exception does not apply to race discrimination in disposing of premises. It only applies to discrimination in relation to permission to dispose of premises where it is based on religion or belief or sexual orientation.

768. This exception also exempts a controller of leasehold premises (as defined in section 36) from the duty to make reasonable adjustments provided that:

- where the premises have been let, the premises are (or have been) the controller's main or only home and he or she has not used the services of a manager since letting the premises (paragraph 2(1));
- where the premises are to let, they are the controller's main or only home and he or she has not used the service of an estate agent for letting purposes (paragraph 2(3)).

769. The second exception applies to disposal, management or occupation of part of small premises. It applies where a person engaging in the conduct in question, or a relative of that person, lives in another part of the premises and the premises include facilities shared with other people who are not part of their household.

770. This exception does not apply to race discrimination when disposing of or giving permission for the disposal of premises, or in the management of premises.

771. The small premises exception also exempts a controller of premises or a person responsible in relation to common parts (as defined in section 36) from the duty to make reasonable adjustments where the premises are small, where that person or a relative of that person lives in one part of the premises and residents who are not members of that person's household live in another part of the premises. The definitions of “small premises” and “relative” in paragraph 3 apply.

772. Paragraph 5 contains a power for a Minister of the Crown to amend or repeal the small premises exception.

Background

773. This Schedule replaces similar provisions in previous legislation.

Examples

- A homeowner makes it known that she is preparing to sell her flat privately. A work colleague expresses an interest in buying it but she refuses to sell it to him because he is black. That refusal would not be covered by this exception and so would be unlawful.
- A homeowner makes it known socially that he wants to sell his house privately. Various prospective buyers come forward and the homeowner opts to sell it to a fellow Christian. The other prospective buyers cannot claim that they were discriminated against because the homeowner's actions were covered by this exception.
- A single woman owns a large house in London and lives on the top floor, although the bathroom and toilet facilities are on the first floor. The ground floor is unoccupied and she decides to take in a lodger, sharing the bathroom and toilet facilities. Various prospective tenants apply but she chooses only to let the ground floor to another woman. This would be permissible under this exception.
- A Jewish family own a large house but only live in part of it. They decide to let out an unoccupied floor but any new tenant will have to share kitchen and cooking facilities. The family choose only to let the unoccupied floor to practising Jews as they are concerned that otherwise their facilities for keeping their food kosher may be compromised. This would be permissible under this exception.

Schedule 6***: Office-holders: excluded offices***

Effect

774. This Schedule provides that an office or post is not treated as a personal or public office in the Act in circumstances where the office-holder is protected by one of the other forms of protection given in Part 5 of the Act — employment, contract work, employment services (as they relate to work experience), partnerships, limited liability partnerships, barristers and advocates. It also provides that political offices, life peerages, and any other dignity or honour conferred by the Crown are not personal or public offices for the purposes of the Act.

Background

775. The Schedule replaces similar provisions in previous legislation. The conferral of honours and dignities is treated as a public function for the purposes of the Act, and the specific provisions formerly found in the Race Relations Act 1976 alone are not replicated. Public bodies' activities in relation to honours and dignities will also be subject to the public sector equality duty.

Example

- A person appointed as a commissioner of a public body may be both an employee and an office-holder. Such a person will be protected under the employment provisions in section 39 as against his employer, and under the office-holder provisions in sections 49 or 50 and 51 as against the person who appointed him and/or any relevant person.

Schedule 7***: Equality of terms: exceptions***

Part 1*: Terms of work*

Compliance with laws regulating employment of women, etc.

776. Part 1 of this Schedule sets out exceptions to the operation of a sex equality clause or a maternity equality clause. It provides that such clauses will not have effect on any terms of employment, appointment or service that are governed by laws regulating employment of women. A few of these remain, mainly for health and safety purposes. A sex equality clause will also have no effect on terms giving special treatment to women in connection with pregnancy or childbirth.

Background

777. This Schedule replaces similar provisions in the Equal Pay Act 1970.

Part 2*: Occupational pension schemes*

Effect

778. Part 2 of this Schedule sets out certain circumstances where a sex equality rule does not have effect in relation to occupational pension schemes.

779. It allows payments of different amounts for comparable men and women, in prescribed circumstances, if the difference is only because of differences in retirement benefits to which men and women are entitled. It permits payment of different amounts where those differences result from the application of prescribed actuarial factors to the calculation of the employer's contributions to an occupational pension scheme. It also permits payment of different amounts where actuarial factors are applied to the determination of certain prescribed benefits.

780. It also contains a regulation-making power to vary or add to these circumstances. The regulations may make provision for past periods, but not for pensionable service before 17 May 1990.

Background

781. This replaces similar provisions in section 64 of the Pensions Act 1995.

Schedule 8***: Work: reasonable adjustments***

Effect

782. This Schedule explains how the duty to make reasonable adjustments in section 20 applies to an employer or other persons under Part 5 of the Act. It sets out the three requirements of the duty which apply where an “interested” disabled employee or job applicant is placed at a substantial disadvantage compared with nondisabled employees or applicants. As the duty is owed to an

"interested" disabled employee or job applicant, it is not an anticipatory duty which means that an employer is not required to anticipate the needs of potential disabled employees or job applicants and make reasonable adjustments in advance of their having an actual disabled employee or job applicant.

783. The tables set out who is an interested disabled person in relation to different categories of "relevant matters" and the circumstances in which the duty applies in each case. These tables capture how the duty applies in a number of areas related to work, for example to qualifications bodies and to trade organisations and there is a regulation-making power to enable further detail to be set out about how the duty applies to local authorities in respect of disabled members.

784. The Schedule also sets out the circumstances in which lack of knowledge of the person's disability or that a disabled person may be an applicant for a job means that the duty does not apply.

Background

785. This Schedule replaces similar provisions in the Disability Discrimination Act 1995. The Schedule provides greater clarity than in the previous legislation that a duty to make reasonable adjustments includes a requirement to provide an auxiliary aid if this would overcome the substantial disadvantage to the disabled person.

Examples

- An employer provides specially adapted furniture for a new employee with restricted movement in his upper limbs. This is likely to be a reasonable adjustment for the employer to make.
- A large employer is recruiting for posts which routinely attract a high number of applications. He arranges for large-print application forms to be available for any visually impaired people applying for a job. This is likely to be a reasonable adjustment for the employer to make.

Schedule 9***: Work: exceptions***

Part 1*: Occupational requirements*

786. Part 1 of this Schedule concerns requirements for particular kinds of work.

General: paragraph 1

Effect

787. This paragraph provides a general exception to what would otherwise be unlawful direct discrimination in relation to work. The exception applies where being of a particular sex, race, disability, religion or belief, sexual orientation or age — or not being a transsexual person, married or a civil partner — is a requirement for the work, and the person whom it is applied to does not meet it (or, except in the case of sex, does not meet it to the reasonable satisfaction of the person who applied it). The requirement must be crucial to the post, and not merely one of several important factors. It also must not be a sham or pretext. In addition, applying the requirement must be proportionate so as to achieve a legitimate aim.

788. The exception can be used by employers, principals (as defined in section 41) in relation to contract work, partners, members of limited liability partnerships and those with the power to appoint or remove office-holders, or to recommend an appointment to a public office.

Background

789. This paragraph replicates the effect of exceptions for occupational requirements in current discrimination legislation, and creates new exceptions in relation to disability and to replace the existing exceptions for occupational qualifications in relation to sex, gender reassignment, colour and nationality. It differs from the existing exceptions for occupational requirements in that it makes clear that the requirement must pursue a legitimate aim and that the burden of showing that the exception applies rests on those seeking to rely on it.

Examples

- The need for authenticity or realism might require someone of a particular race, sex or age for acting roles (for example, a black man to play the part of Othello) or modelling jobs.
- Considerations of privacy or decency might require a public changing room or lavatory attendant to be of the same sex as those using the facilities.
- An organisation for deaf people might legitimately employ a deaf person who uses British Sign Language to work as a counsellor to other deaf people whose first or preferred language is BSL.
- Unemployed Muslim women might not take advantage of the services of an outreach worker to help them find employment if they were provided by a man.
- A counsellor working with victims of rape might have to be a woman and not a transsexual person, even if she has a Gender Recognition Certificate, in order to avoid causing them further distress.

Religious requirements relating to sex, marriage etc., sexual orientation: paragraph 2

Effect

790. This specific exception applies to employment for the purposes of an organised religion, which is intended to cover a very narrow range of employment: ministers of religion and a small number of lay posts, including those that exist to promote and represent religion. Where employment is for the purposes of an organised religion, this paragraph allows the employer to apply a requirement to be of a particular sex or not to be a transsexual person, or to make a requirement related to the employee's marriage or civil partnership status or sexual orientation, but only if —

- appointing a person who meets the requirement in question is a proportionate way of complying with the doctrines of the religion; or,
- because of the nature or context of the employment, employing a person who meets the requirement is a proportionate way of avoiding conflict with a significant number of the religion's followers' strongly held religious convictions.

791. The requirement must be crucial to the post, and not merely one of several important factors. It also must not be a sham or pretext. Applying the requirement must be a proportionate way of meeting either of the two criteria described in paragraph 790 above.

792. The requirement can also be applied by a qualifications body in relation to a relevant qualification (within the meaning of section 54), if the qualification is for employment for the purposes of an organised religion and either of the criteria described in paragraph 790 above is met.

Background

793. This exception replaces and harmonises exceptions contained in previous discrimination law.

Examples

- This exception would apply to a requirement that a Catholic priest be a man and unmarried.

• This exception is unlikely to permit a requirement that a church youth worker who primarily organises sporting activities is celibate if he is gay, but it may apply if the youth worker mainly teaches Bible classes.
• This exception would not apply to a requirement that a church accountant be celibate if he is gay.

Other requirements relating to religion or belief: paragraph 3

Effect

794. This paragraph allows an employer with an ethos based on religion or belief to discriminate in relation to work by applying a requirement to be of a particular religion or belief, but only if, having regard to that ethos:

• being of that religion or belief is a requirement for the work (this requirement must not be a sham or pretext); and
• applying the requirement is proportionate so as to achieve a legitimate aim.

795. It is for an employer to show that it has an ethos based on religion or belief by reference to such evidence as the organisation's founding constitution.

Background

796. This paragraph is designed to replicate the effect of provisions in current legislation.

Example

• A religious organisation may wish to restrict applicants for the post of head of its organisation to those people that adhere to that faith. This is because to represent the views of that organisation accurately it is felt that the person in charge of that organisation must have an in-depth understanding of the religion's doctrines. This type of discrimination could be lawful. However, other posts that do not require this kind of in-depth understanding, such as administrative posts, should be open to all people regardless of their religion or belief.

Armed forces: paragraph 4

Effect

797. This paragraph allows women and transsexual people to be excluded from service in the armed forces if this is a proportionate way to ensure the combat effectiveness of the armed forces.

798. It also exempts the armed forces from the work provisions of the Act relating to disability and age.

Background

799. This paragraph replicates the effects of exemptions for the armed forces in previous legislation, but narrows the scope of the former combat effectiveness exception so that this applies only to direct discrimination in relation to recruitment and access to training, promotion and transfer opportunities.

Example

• Only ground close-combat roles requiring Service personnel to deliberately close with and kill the enemy face-to-face are confined to men. Women and transsexual people are,

therefore, currently excluded from the Royal Marines General Service, the Household Cavalry and Royal Armoured Corps, the Infantry and the Royal Air Force Regiment only.

Employment services: paragraph 5

Effect

800. This paragraph makes it lawful for an employment service-provider to restrict a service to people with a particular protected characteristic if the treatment relates either to work for which having that characteristic is an occupational requirement, or to training for such work.

801. The service-provider can rely on the exception by showing that he or she reasonably relied on a statement from a person who could offer the work in question that having the particular characteristic was an occupational requirement. It is, however, a criminal offence for such a person to make a statement of that kind which they know to be false or misleading.

Background

802. This paragraph is designed to replicate the effect of provisions in previous legislation.

Example

• The provider of a Catholic theological training course required exclusively for those training to be Catholic priests may limit access to the course to Catholics because the training relates to work the offer of which can be limited to Catholics by virtue of an occupational requirement.

Interpretation: paragraph 6

Effect

803. This paragraph defines "work" for the purposes of Part 1 of the Schedule and provides that the exceptions in this Part are available in respect of direct discrimination in recruitment, access to promotion, transfer or training, or (except in the case of sex discrimination) dismissal only. None of these exceptions can be used to justify indirect discrimination or harassment.

Part 2*: Exceptions relating to age*

Retirement: paragraph 8

Effect

804. This paragraph allows employers to dismiss on the grounds of retirement employees at the age of 65 or over without this being regarded as age discrimination and/or unfair dismissal. However, where an employee has a normal retirement age which is applicable to him or her which exceeds the age of 65, if the employee is dismissed on the grounds of retirement before he or she has reached that normal retirement age, this is capable of amounting to age discrimination and/or unfair dismissal.

805. This exception applies only to employees within the meaning of section 230(1) of the Employment Rights Act 1996, those in Crown employment, and House of Lords and House of Commons staff. This paragraph needs to be read closely with the amendments to the unfair dismissals provisions of Part 10 of the Employment Rights Act 1996, which were amended by Schedule 8 to the Employment Equality (Age) Regulations 2006 (S.I. 2006/1031) ("the 2006 Regulations") and which amendments remain in place when this paragraph is commenced.

806. Under paragraph 8(3) retirement is a reason for dismissal only if it is a reason for dismissal by virtue of Part 10 of the Employment Rights Act 1996. Schedule 6 to the 2006 Regulations (which

remains in place) sets out the procedures that need to be followed by an employer in order for the reason for the dismissal to be retirement under the sections inserted into Part 10 of the Employment Rights Act 1996 by Schedule 8 to the 2006 Regulations, and in order for the dismissal to be fair.

Background

807. Paragraph 8 preserves the exception for retirement previously provided for by regulation 30 of the 2006 Regulations, and accompanying provisions at Schedule 6 and Schedule 8 to the 2006 Regulations.

808. Before the coming into force of the 2006 Regulations, the concept of retirement was not legally defined. Where an employee was either over 65 or the employer's normal retirement age, the employee did not have the right to claim unfair dismissal. The employee could be compulsorily retired once he had reached the employer's normal retirement age, or 65. The removal of this age cap on the right to claim unfair dismissal was removed by the 2006 Regulations.

809. Compulsory retirement ages are a form of direct age discrimination. Where the retirement age is below the age of 65 (or the employer's normal retirement age if over the age 65) it needs to be objectively justified.

810. The Government considers this exception for retirement ages of 65 and over to be within the exemption contained in article 6(1) of the Council Directive 2000/78/EC ("the Directive") as being justified by reference to a legitimate aim of social policy.

811. This provision is being reviewed during 2010. It is intended that any changes resulting from the review will be implemented during 2011.

Examples

- An employee has reached the age of 65. His employer has followed the correct procedure for the reason for dismissal to be deemed retirement. He is dismissed by reason of retirement. This is not direct age discrimination.
- An employer dismisses an employee on her 65th birthday by giving her notice, but does not follow the correct procedure. This is direct age discrimination.

Applicants at or approaching retirement age: paragraph 9

Effect

812. As a result of this paragraph it is not unlawful discrimination for an employer to decide not to offer employment to a person where, at the time of the person's application to the employer, he or she is over the employer's normal retirement age orn he or she is over the age of 65 if the employer has no normal retirement age.

813. It is also not unlawful to refuse to offer employment where the applicant will reach the employer's normal retirement age or the age of 65 (if the employer has no normal retirement age) within six months of the application for employment.

814. For these purposes, the employer's normal retirement age must be 65 or over and has the same meaning as is given in section 98ZH of the Employment Rights Act 1996 (as inserted by Schedule 8 to the 2006 Regulations).

815. The employees to which paragraph 9 applies are the same group of employees to which paragraph 8 (exception for retirement) applies: that is to say, employees within the meaning of section 230(1) of the Employment Rights Act 1996, Crown employees, House of Lords staff and House of Commons staff.

Background

816. Paragraph 9 preserves the exception previously provided for at regulation 7(4) of the 2006 Regulations.

817. The rationale for this exclusion from the requirement not to discriminate flows from the rationale for paragraph 8 (exception for retirement). There is little point in requiring an employer not to discriminate at the point of receiving an application from a prospective employee when, if he or she were to employ the person, that person could be retired (without it amounting to discrimination to do so) within six months of their appointment.

818. The appointment provisions are also being reviewed during 2010. It is intended that any changes resulting from the review will be implemented in 2011.

Examples

- An applicant is 66 years old at the time of applying for a job to work in an organisation where there is no normal retirement age. It is lawful for the employer to refuse her application simply on the basis of the applicant's age.
- An applicant is 69 years and 8 months old at the time of making an application to work in an organisation that has a normal retirement age of 70. Because the applicant will reach the age of 70 within 6 months, it is lawful for the employer to refuse his application.

Benefits based on length of service: paragraph 10

Effect

819. This paragraph ensures that an employer does not have to justify paying or providing fewer benefits to a worker with less service than a comparator, should such a practice constitute indirect discrimination because of age. The employer can rely on the exception as an absolute defence where the benefit in question was awarded in relation to service of five years or less.

820. If the length of service exceeds five years, the exception applies only if it reasonably appears to an employer that the way in which he uses length of service to award benefits will fulfil a business need of his undertaking. For example, by encouraging the loyalty or motivation, or rewarding the experience, of some or all of his workers.

821. Sub-paragraph (6) contains provisions which ensure that in calculating an employee's length of service previous service is taken into account where that is the result of the operation of section 218 of the Employment Rights Act 1996 or any other enactment such as an Order made under section 155 of that Act.

822. Sub-paragraph (7) defines what a benefit is and expressly rules out benefits provided only by virtue of a person's ceasing to work.

Background

823. The intention is to replicate the effect of regulation 32 of the 2006 Regulations (as amended by the Employment Equality (Age) Regulations 2006 (Amendment) Regulations 2008).

824. This paragraph enables employers to continue to effect employment planning, in the sense of being able to attract, retain and reward experienced staff through service-related benefits. This exception cannot be used to justify the level of payments when a worker leaves as service- related termination payments are not a reward for experience from which the employer can benefit. Therefore, redundancy payment is dealt with separately.

Examples

• An employer's pay system includes an annual move up a pay spine, or a requirement that a certain amount of time must elapse before an employee is entitled to be a member of an employee benefits scheme. Provided that the pay spine or time it takes to get the benefit is no longer than five years or can be justified the exception will apply.

• An employer's terms and conditions relating to annual leave entitlement provide that employees are entitled to an additional five days' leave after ten years of service. Such an entitlement needs to be justified as reasonably fulfilling a business need.

The national minimum wage: young workers: paragraph 11

Effect

825. This paragraph allows employers to base their pay structures on the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 ("the 1999 Regulations"). Employers cannot rely on this exception, however, if they do not base their pay structure on the national minimum wage legislation.

826. This will allow employers to continue to use the development bands of the national minimum wage without the threat of legal challenge on the grounds of age discrimination.

Background

827. This paragraph is designed to replicate the effect of the exception in regulation 31 of the 2006 Regulations.

Examples

• It is lawful for an employer to pay 16 to 21 year olds a lower rate of minimum wage than that given to adults, when based on the development bands set out in 1999 Regulations. For example, based on the 2009/10 rates:

— 16–17 a rate of £3.57 per hour

— 18–21 a rate of £4.83 per hour

whereas the national minimum wage for those 22 and over is £5.80.

• Rather than pay the amounts stated by the 1999 Regulations, this paragraph also permits an employer to base its pay scales on the development bands and so, for example, it may pay 16–17 year olds £4 per hour, 18–21 year olds £5 per hour and those over 22 £6 per hour.

The national minimum wage: apprentices: paragraph 12

Effect

828. This paragraph deals with apprentices. It enables an employer to pay an apprentice who is not entitled to the national minimum wage (any apprentice who is under 19 or in the first year of his apprenticeship) less than an apprentice who is entitled to the national minimum wage (any apprentice who is 19 or over and not in the first year of his apprenticeship). Employers cannot rely on this exception, however, if they do not base their pay structure on the national minimum wage legislation.

Background

829. This paragraph is designed to replicate the effect of the exception in regulation 31 of the 2006 Regulations.

Examples

• It is lawful for an employer to pay an apprentice who is under the age of 19 or in the first year of his apprenticeship at a lower rate than an apprentice who is 19 or over and not in the first year of his apprenticeship. For example, based on the 2009/10 rates:

— an 18 year old apprentice is not entitled to the minimum wage;

— a 19 year old apprentice in the first year of his apprenticeship is not entitled to the minimum wage;

— a 19 year old apprentice in his 2nd year of apprenticeship is entitled to £4.83 per hour based on the National Minimum Wage Rate for 18– 21 year olds.

• So it is lawful to pay an 18 year old apprentice and a 19 year old apprentice in the first year of her apprenticeship £5 per hour and to pay a 19 year old in the second year of his apprenticeship £5.50 per hour.

Redundancy: paragraph 13

Effect

830. This paragraph permits employers to provide redundancy schemes which mirror the statutory redundancy payments scheme contained in Part 11 of the Employment Rights Act 1996 but offer more generous terms.

831. The statutory redundancy scheme at Part 11 of the Employment Rights Act 1996 ("ERA 1996") requires an employer to make a payment upon redundancy, the amount of which is dependent upon the employee's age, length of service, and weekly pay (subject to a cap: see Schedule 227 to the ERA 1996). The statutory redundancy scheme is lawful under Directive 2000/78/EC as it is objectively justified under Article 6.1 of the Directive.

832. An employer who makes a redundancy payment to an employee in accordance with Part 11ERA 1996 does not have to justify it. Both the statutory authority exemption (in Schedule 22) and this regulation make it clear that the employer is acting lawfully, even though the payment is calculated using age-related criteria.

833. But this paragraph is not aimed at such employers. The principal object of this provision is to assist those employers who base their redundancy schemes on the statutory scheme but who are more generous than the statutory scheme requires them to be.

Background

834. This exception is designed to replicate the effect of an existing exception in regulation 33 of the 2006 Regulations.

Examples

• An employer may pay qualifying employees an enhanced redundancy payment based on their actual week's pay rather than the maximum amount as specified in section 227ERA 1996 (currently £380).

• So an employee (P) aged 45 with 18 years continuous employment earning £600 a week would receive one and a half weeks pay for each year of employment in which he was not below the age of 41 and one week's pay for each year of employment in which he was not below the age of 22 so P would receive the following: 3 × (1.5 × £600) + (15 ×£600) = £11,700.

• An employer may pay qualifying employees an enhanced redundancy payment calculated in accordance with section 162 of ERA 1996 but after calculating the appropriate amount

for each year of employment, the employer may apply a multiple of two rather than one. So the employer could pay P £23,400 rather than £11,700.

• Alternatively, the employer could apply the maximum amount of £380 to P's payment but apply a multiple of 2 and pay P the following: 2 × 3 × (1.5 × £380) + (15 × £380) = 2 × (£1710 + 5700) = £14820.

Life assurance: paragraph 14

Effect

835. This paragraph provides an exception for employers who provide life assurance cover to workers who have had to retire early because of ill health.

Background

836. This paragraph is designed to replicate the effect of the exception in regulation 34 of the 2006 Regulations.

837. Life assurance cover is usually provided in respect of people below the age of 65 (or the employer's normal retirement age if different). Such cover is not provided in respect of older people because, as the probability of death increases, it becomes more and more expensive to provide. If employers were no longer able to impose — or had to objectively justify — a “cut off” for the provision of such cover to those who have retired early, there is a real risk they would simply “level down”: in other words, they would cease to offer it to anyone. This exception is intended to avoid that happening.

Examples

• An employer who has no normal retirement age provides life assurance cover for an employee who has retired early due to ill health. If the employer then ceases to provide such cover when the employee reaches the age of 65, this is lawful.

• An employer who operates a normal retirement age of 70 provides life assurance cover for an employee who has retired early due to ill health. If the employer then ceases to provide such cover when the employee reaches the age of 70, this is lawful.

Child care: paragraph 15

Effect

838. This paragraph creates an exception from the prohibition of age discrimination in employment and certain other work relationships for benefits which relate to the provision of child care, and to which access is restricted to children of a particular age group. The exception applies not only to natural parents, but also to others with parental responsibility for a child.

839. The exception covers benefits which relate to the provision of care for children aged up to and including 16.

Background

840. This is a new provision. Following the ruling of the European Court of Justice in *Coleman v Attridge Law and another (Case C-303/06) [2008] ECR I-5603)* it could potentially be direct discrimination for an employer to treat an employee less favourably because of the age of an employee's child. There is, therefore, a potential impact on the provision of facilities, such as child care, where access is limited by reference to the child's age.

841. The exception allows employers to continue to offer employees child care facilities based on the age of a child without being open to a challenge of direct discrimination from other employees.

Examples

• An employer may provide a crèche for employees' children aged two and under; or a holiday club open only to employees' children aged between 5 and 9. In each of these examples, the exception allows an employer to discriminate against employees because of their association with a child who does not fall within the specified age groups.

• The exception does not apply to employee benefits which do not have a close relationship with the provision of child care. For example, if an employer offers luncheon vouchers, gym membership or a company car only to those employees with children of a particular age group, the exception does not apply as none of these benefits involves child care.

• Neither does the exception apply to benefits conferred as a result of the employee's employment, but applying directly to the child, where child care is not involved. For example, an employer may offer private healthcare to employees' children up to a certain age, or use of the employer's services (e.g. free train tickets if the employer is a train company) by such children.

Contributions to personal pension schemes: paragraph 16

Effect

842. This paragraph gives a Minister of the Crown the power to specify practices, actions or decisions relating to age in respect of employer contributions to personal pension schemes that an employer can use without breaching a non-discrimination rule.

Background

843. Exceptions to the non-discrimination rule in relation to age in respect of employer contributions to personal pension schemes were previously set out at Schedule 2 to the Employment Equality (Age) Regulations 2006 (S.I. 2006/1031).

Part 3***: Other exceptions***

Non-contractual payments to women on maternity leave: paragraph 17

Effect

844. This paragraph sets out an exception to the prohibitions on pregnancy and maternity discrimination by employers which allows an employer not to offer an applicant or provide an employee who is on maternity leave the benefits of the non-contractual terms and conditions of her employment. It also explains what is and is not covered by this exception.

Background

845. This paragraph is designed to replicate the effect of provisions in the Sex Discrimination Act 1975. It does for non-contractual terms and conditions of employment relating to pay what is done for contractual terms in section 74.

Examples

• An employer would not have to pay a woman on maternity leave a discretionary bonus if the only condition of eligibility for the bonus was that the employee must be in active employment at the time of payment.

• If a discretionary bonus amounted to retrospective payment for time worked over a specific period (such as the past year) during which a woman took maternity leave, the employer

must include any part of that period the woman spent on compulsory maternity leave in calculating the bonus.

Benefits dependent on marital status: paragraph 18

Effect

846. This paragraph concerns a specific exception to the prohibition of discrimination because of sexual orientation in the field of work. The exception concerns the provision of benefits by reference to marital status in respect of periods of service before 5 December 2005 (the coming into force of the Civil Partnership Act 2004). It also concerns benefits restricted to married persons and civil partners.

Background

847. This exception is intended to preserve the effect of regulation 25 of the Employment Equality (Sexual Orientation) Regulations 2003.

Examples

• An example of an employment benefit provided by reference to marital status is an occupational pension scheme which pays benefits to an employee's spouse on the death of the employee, but does not similarly compensate an unmarried employee's partner.

• A scheme which pays out only to surviving married and civil partners could be indirectly discriminatory because it might disadvantage gay couples, but it is permitted by the exception.

• A scheme which pays out to surviving married partners must also pay out to surviving civil partners in respect of any employee service since 5 December 2005 (when the Civil Partnership Act 2004 came into force). Provided the scheme does that, the exception allows it, even though it may (directly or indirectly) discriminate by paying out only to married partners for service before that date.

Provision of services, etc. to the public: paragraph 19

Effect

848. This paragraph provides that an employer who provides services to the public at large is not liable for claims of discrimination or victimisation by an employee under Part 5 of the Act in relation to those services. Rather, where individuals are discriminated against or victimised in relation to those services, they can make a claim in the county court under Part 3. If on the other hand the service differs from that provided to other employees, is provided under the terms and conditions of employment, or the service is to do with training, the individual can bring a claim in an employment tribunal for breach of the provisions in Part 5. These provisions are also applicable to services provided by principals, firms, limited liability partnerships and relevant persons (in respect of personal or public office-holders).

Background

849. This section is designed to replace similar provisions in previous legislation and has been extended to partnerships.

Examples

• If an employee of a car hire company is denied the hire of one of its cars (on the same terms available to the general public) because he is black, the employee must claim under

the "services" section of the Act in the county court, rather than through an employment tribunal under the "work" provisions of the Act.

• If the same employee's employment contract provides that he is allowed to hire the company's cars at a discount (which members of the public would not get), but the employee is refused the discount when he goes to hire one of the firm's cars because he is a Muslim, then the employee would be able to make a discrimination claim under section 39.

Insurance contracts etc.: paragraph 20

Effect

850. This paragraph applies where annuities, life assurance policies, accident insurance policies or similar matters which involve the assessment of risk are provided in the field of employment. It allows for employers to provide for payment of premiums or benefits that differ for men and women, persons who are or are not married or in a civil partnership, pregnancy or maternity or gender reassignment so far as this is reasonable in the light of actuarial or other reliable data.

Background

851. This paragraph is designed to replace a similar exception in the Sex Discrimination Act 1975. It permits differences in treatment for insurance or risk-related matters where the difference is done by reference to reliable actuarial or other data and it is reasonable in all the circumstances.

Example

• An employer makes access to a group insurance policy available as a result of being employed by it. The employer, not the insurer, is responsible for ensuring that the provision of benefits under the policy complies with this Act — see paragraph 20 of Part 5 of Schedule 3. In providing access to these group policies the employer may take advantage of this exception.

Schedule 10***: Accessibility for disabled pupils***

852. This Schedule provides for accessibility arrangements for pupils in schools as set out in section 88.

Effect

853. Local authorities must prepare written accessibility strategies which will increase disabled pupils' access to the school curriculum, improve the physical environment for such pupils and improve the provision of information to them. Strategies must be implemented by local authorities after taking account of pupils' disabilities and preferences expressed by them and their parents. They should be reviewed regularly, and revised if needed.

854. Local authorities must have regard to the need to allocate adequate resources to implementation of the strategy and use any guidance which may be issued by a Minister of the Crown in England and the Welsh Ministers in Wales.

855. Schools must develop written accessibility plans which will increase the access of disabled pupils to the school curriculum, improve the physical environment for such pupils and improve the provision of information to them. Plans must be implemented by schools after taking account of disabled pupils' disabilities and preferences expressed by them and their parents. They should be reviewed regularly, and revised if needed. Inspections of schools by OFSTED can look at the performance of these duties by schools.

856. Schools must have regard to the need to allocate adequate resources to the plans.

857. If the Secretary of State in England or the Welsh Ministers in Wales determine that a maintained school or Academy or local authority has failed to discharge these duties, has acted unreasonably in respect of these duties or has failed to comply with an order of the First-tier Tribunal or the Special Educational Needs Tribunal for Wales, they may give directions to the school or local authority about discharging the duty or compliance with the order. However, a Secretary of State in England may not issue directions if the matter has been, or could have been, referred to the Local Commissioner unless, if the matter has been referred to the Local Commissioner, the school has not complied with any recommendation given.

858. Paragraph 6 gives a power, in England to a Minister of the Crown, and in Wales to the Welsh Ministers, to make regulations to say what is, and is not, education and a benefit, facility or service.

Background

859. These provisions are designed to replicate the effect of provisions in the Disability Discrimination Act 1995, and require schools and local authorities to plan to make all aspects of school more accessible to disabled pupils, particularly as the requirement to make reasonable adjustments to physical features of premises does not apply to schools.

Example

- A school discusses with its disabled pupils their needs and requirements in order to help it develop a written accessibility plan. The plan includes a strategy to improve the physical environment of the school by putting in ramps and more easily accessible rooms, putting in hearing loops and producing newsletters in Braille.

Schedule 11***: Schools: exceptions***

Part 1*: Sex discrimination*

860. Part 1 of this Schedule makes exceptions from the prohibition on sex discrimination by schools in section 85 to allow for the existence of single-sex schools and for single-sex boarding at schools, and to make transitional provisions for single-sex schools which are turning co-educational.

Background

861. These provisions are designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Admission to single-sex schools: paragraph 1

Effect

862. This paragraph allows a single-sex school to refuse to admit pupils of the opposite sex. A school is defined as single-sex if it admits pupils of one sex only. This is so even if it admits a small number of pupils of the opposite sex on an exceptional basis or in relation to particular courses or classes only. Limiting those pupils to particular courses or classes is not discrimination. However, other forms of sex discrimination by the school against its opposite-sex pupils would still be unlawful.

Examples

- A school which admits only boys is not discriminating unlawfully against girls.
- If the daughters of certain members of staff at a boys' school are allowed to attend, it is still regarded as a single-sex school.

• A boys' school which admits some girls to the Sixth Form, or which lets girls attend for a particular GCSE course not offered at their own school is still regarded as a single-sex school.
• A boys' school which admits girls to A-level science classes is not discriminating unlawfully if it refuses to admit them to A-level media studies or maths classes.
• A boys' school which admits girls to the Sixth Form but refuses to let them use the same cafeteria or go on the same visits as other Sixth Form pupils would be discriminating unlawfully against them.

Single-sex boarding at schools: paragraph 2

Effect

863. This paragraph provides that a mixed-sex school some of whose pupils are boarders may lawfully admit only pupils of one sex to be boarders. The exception applies even if some members of the other sex are admitted as boarders, so long as their numbers are comparatively small. It allows a school to refuse to admit a pupil to a boarding place at the time he or she initially joins the school, or to provide him or her with boarding facilities at a later stage.

Example

• A mixed-sex school has facilities for female boarders and can lawfully state in its prospectus that males cannot be accepted as boarders.

Single-sex schools turning co-educational: paragraphs 3 and 4

Effect

864. Paragraphs 3 and 4 enable a school which is going through the process of changing from a single-sex to a co-educational institution to apply for a transitional exemption order to enable it to continue to restrict admittance to a single sex until the transition from single-sex is complete.

865. Paragraph 4 sets out the procedures for applying for a transitional exemption order for each type of school.

Examples

If a transitional exemption order is made in accordance with the arrangements in paragraph 4:

• A boys' school which decides to become co-educational by starting to admit girls to Year 7 while keeping upper classes as they are, will not be discriminating unlawfully by refusing to admit girls to other years, until coeducational classes have been phased in throughout the school.
• A girls' school which decides to become co-educational by initially admitting a certain number of boys to each year group will not be discriminating unlawfully by reserving a number of places in each year group for boys.
• A school in the process of becoming co-educational must treat its male and female pupils equally once they have been admitted, since the transitional exemption order only relates to admissions.

Part 2*: Religious or belief-related discrimination*

866. Part 2 of this Schedule makes some exceptions to the prohibition on discrimination because of religion or belief in relation to schools with a religious character, and to acts of worship or other religious observance in any school.

Background

867. These exceptions, and the amending powers in paragraph 7, are designed to replicate the effect of provisions in Part 2 of the Equality Act 2006.

Schools with religious character, etc.: paragraph 5

Effect

868. This paragraph allows schools which have a religious character or ethos (often referred to as faith schools) to discriminate because of religion or belief in relation to admissions and in access to any benefit, facility or service. It means that faith schools may have admissions criteria which give preference to members of their own religion and it allows them to conduct themselves in a way which is compatible with their religious character or ethos. It does not allow faith schools to discriminate because of any other of the protected characteristics, such as sex, race or sexual orientation. Nor does it allow them to discriminate because of religion in other respects, such as by excluding a pupil or subjecting him to any other detriment.

Examples

- A Muslim school may give priority to Muslim pupils when choosing between applicants for admission (although the Admissions Code will not allow it to refuse to accept pupils of another or no religion unless it is oversubscribed). However, it may not discriminate between pupils because of any other of the protected characteristics, such as by refusing to admit a child of the school's own faith because she is black or a lesbian.
- A Jewish school which provides spiritual instruction or pastoral care from a rabbi is not discriminating unlawfully by not making equivalent provision for pupils from other religious faiths.
- A Roman Catholic school which organises visits for pupils to sites of particular interest to its own faith, such as a cathedral, is not discriminating unlawfully by not arranging trips to sites of significance to the faiths of other pupils.
- A faith school would be acting unlawfully if it sought to penalise or exclude a pupil because he or she had renounced the faith of the school or joined a different religion or denomination.

Curriculum, worship etc.: paragraph 6

Effect

869. This paragraph disapplies the prohibition on religious discrimination from anything done in relation to acts of worship or other religious observance organised by or on behalf of a school, whether or not it is part of the curriculum.

Background

870. This exception applies to any school, not just faith schools, and reflects the need to avoid any conflict with the existing legislative framework in respect of religious worship in schools, which generally requires collective worship to be of a broadly Christian nature. While parents can remove their children from collective worship, and sixth form pupils may decide to withdraw themselves, schools are under no obligation to provide opportunities for separate worship for the different religions and beliefs represented among their pupils. The exception in paragraph 6 maintains that position. It is designed to replicate the position in the Equality Act 2006.

Examples

- Under education law, a school must allow Jewish or Hindu parents to withdraw their children from daily assemblies which include an element of worship of a mainly Christian

character, but it will not be discriminating unlawfully against those children by not providing alternative assemblies including Jewish or Hindu worship.

• Schools are free to organise or to participate in ceremonies celebrating any faith, such as Christmas, Diwali, Chanukah or Eid, without being subject to claims of religious discrimination against children of other religions or of none.

Power to amend: paragraph 7

Effect

871. Paragraph 7 provides a power for a Minister of the Crown to add to, amend or repeal these religious discrimination exceptions.

Background

872. This power is designed to replicate the effect of provisions in Part 2 of the Equality Act 2006, which first prohibited religious discrimination in schools. It has not yet been used. Its purpose is to enable a Minister of the Crown to review the working of these provisions once they have been in effect for a sufficient period and make any changes which appear to be necessary in the light of that experience, using secondary legislation.

Part 3*: Disability discrimination*

Permitted form of selection: paragraph 8

Effect

873. This paragraph provides that schools will not be discriminating against disabled children when applying a permitted form of selection that they are using.

Background

874. This provision is designed to replicate the effect of provisions in the Disability Discrimination Act 1995. Permitted forms of selection are the selective admission arrangements operated by grammar schools, and selection by ability and aptitude in accordance with the School Standards and Framework Act 1998.

Example

• The parents of a disabled pupil cannot claim disability discrimination against a particular school if that pupil fails to meet any educational entry requirements set by the school.

Schedule 12***: Further and higher education exceptions***

Part 1*: Single-sex institutions*

Effect

875. Part 1 of this Schedule makes exceptions from the prohibition on sex discrimination by further and higher education institutions to allow for the existence of single-sex colleges and to make transitional provisions for single-sex institutions which are turning co-educational.

Background

876. These provisions are designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Admission to single-sex institutions: paragraph 1

Effect

877. This paragraph allows a single-sex institution to refuse to admit members of the opposite sex. An institution is defined as single-sex if it admits students of one sex only. An institution which exceptionally admits students of the opposite sex, or which admits a comparatively small number of opposite-sex students to particular courses or classes only, is still regarded as single-sex. Limiting those students to particular courses or classes is permitted. However, other forms of sex discrimination by the institution against its opposite-sex students would still be unlawful.

Examples

- A women's college which admits only female students is not discriminating unlawfully against men.
- If the college admits a small number of men to make up the numbers on a particular course of study, it is still regarded as a single-sex college. It is not discriminating unlawfully by refusing to admit men to other courses.
- A women's college which admits men to certain courses but refuses to let them use the student cafeteria would be discriminating unlawfully against them.

Single-sex institutions turning co-educational: paragraphs 2 and 3.

Effect

878. These paragraphs enable a college which is going through the process of changing from a single-sex to a co-educational institution to apply for a transitional exemption order, to enable it to continue restricting admittance to a single sex until the transition from single-sex is complete.

879. Paragraph 3 sets out the procedures for applying for a transitional exemption order.

Background

880. These provisions are designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Examples

- If a transitional exemption order is made in accordance with the arrangements in paragraph 3:

A women's college which decides to become co-educational by starting to admit a certain number of male undergraduates to the first year of its degree courses will not be discriminating unlawfully by limiting the number of men it admits, or by refusing men access to postgraduate degree courses.

A college in the process of becoming co-educational must treat its male and female students equally once they have been admitted, since the transitional exemption order relates only to discrimination in relation to admissions.

Part 2*: Other exceptions*

Occupational requirements: paragraph 4

Effect

881. This paragraph enables a higher or further education institution to treat a person differently based on a protected characteristic in relation to providing training which would only fit them for work which, under exceptions in Schedule 9, can lawfully be restricted to people of a particular race, sex, religion, sexual orientation or age, or who are not transgendered or who are not married or in a civil partnership and for which they would therefore be ineligible.

Background

882. This is designed to replicate the effect of provisions in the previous legislation.

Example

- A Catholic theological college can refuse to admit a woman to a training course which was designed only to prepare candidates for the Catholic priesthood. However, a Church of England college could not confine training for the priesthood to men since women may also become Anglican priests.

Institutions with a religious ethos: paragraph 5

Effect

883. This paragraph confers on a Minister of the Crown a power to designate an institution if the Minister is satisfied that the institution has a religious ethos. If an institution is designated it may admit students who share the relevant religion or belief in preference to those who do not, but only in relation to admissions to courses which do not constitute vocational training.

Background

884. This is designed to enable the previous position under an exception in the Employment Equality (Religion or Belief) Regulations 2003 to be maintained. Schedule 1B to those Regulations modified the prohibition on discrimination for a small number of sixth form colleges with a religious ethos. The intention is that this power will be used to designate those colleges.

Benefits dependent on marital status, etc.: paragraph 6

Effect

885. A higher or further education institution which confines any benefit, facility or service — such as access to residential accommodation — to married people and civil partners will not be discriminating because of sexual orientation against people who are unmarried or not in a civil partnership.

Background

886. This is designed to replicate the effect of a provision in the Employment Equality (Sexual Orientation) Regulations 2003 so far as it related to higher or further education institutions.

Child care: paragraph 7

Effect

887. This paragraph provides that a higher or further education institution is permitted to provide, or make arrangements for, or facilitate, care for the children of students which is confined to children of a particular age group. This includes all kinds of assistance with child care including paying for or subsidising it, or enabling parents to spend more time caring for the child.

Background

888. The Act makes it unlawful for higher or further education institutions to discriminate because of the age of a person with whom a student is associated, and not the student's own age. The exception makes it clear that where child care for students' children who are aged 16 or under is concerned, it is not unlawful for this to be based on the age of the child.

Example

• If a college provides a crèche for the pre-school children of students, this will not be unlawful age association discrimination against a student who is the parent of an older child. The college will not have to demonstrate that the provision and the age limits are objectively justified.

Schedule 13***: Education: reasonable adjustments***

889. This Schedule provides for reasonable adjustments to be made by educational bodies in relation to disabled people.

Effect

890. Paragraph 2, which relates to admissions, the provision of education and access to benefits, facilities and services, requires schools to comply with requirements to:

• ensure that any provisions, criteria or practices do not place disabled pupils at a substantial disadvantage in comparison with non-disabled pupils:

• provide any reasonable auxiliary aids which might help remove any such disadvantage.

891. Paragraph 3 requires higher or further education institutions in relation to admissions, education, access to benefits, facilities and services, and the conferring of qualifications to comply with requirements to take reasonable steps to:

• ensure that any provisions, criteria or practices do not place disabled students at a substantial disadvantage in comparison with non-disabled students;

• take reasonable steps to change physical features which place disabled students at a disadvantage;

• provide any reasonable auxiliary aids which might help remove any substantial disadvantage.

892. Paragraph 4 defines who is an “interested disabled person”, in relation to conferment of qualifications. It also sets out that a provision, criterion or practice does not include an application of a competence standard, which is also defined.

893. Paragraph 5 requires local authorities and maintained schools which are providing higher education or further education to take reasonable steps to ensure that any provisions, criteria or practices do not place disabled people at a substantial disadvantage, and provide any reasonable auxiliary aids to help remove any disadvantage in relation to enrolling people on courses of further or higher education, and to services provided once enrolled. Local authorities providing such services also need to take reasonable steps to change physical features which place disabled students at a disadvantage.

894. Paragraph 6 requires local authorities providing recreational or training facilities to take reasonable steps to ensure that any provisions, criteria or practices do not place disabled people at a substantial disadvantage. They must also take reasonable steps to change physical features which place disabled students at a disadvantage and provide reasonable auxiliary aids to help remove any disadvantage in relation to their arrangements for providing recreational or training facilities.

895. Paragraph 7 requires educational institutions to consider the relevant code of practice produced by the Equality and Human Rights Commission when determining reasonable steps.

896. Paragraph 8 requires that, when making any reasonable adjustment for a particular person, the educational institution needs to consider any request made by that person to keep the nature and existence of that person's disability confidential.

897. Paragraph 9 sets out that qualifications bodies must take reasonable steps to:

• ensure that any provision, criterion or practice does not place disabled people at a substantial disadvantage;
• change physical features which put disabled candidates at a substantial disadvantage;
• provide auxiliary aids to disabled candidates who are at a substantial disadvantage in the conferring of qualifications.

Background

898. These provisions are designed to mainly replicate the effect of provisions in the Disability Discrimination Act 1995.

Examples

• A school with a number of disabled pupils could negotiate special arrangements for pupils who are taking exams.
• A school could provide Braille texts to a blind pupil at the start of lessons so they have access to the same information as other pupils.
• A university has a revolving door which causes some problems for disabled pupils and under these duties it may be reasonable for them to replace the door with a sliding one.
• To ensure that a pupil who needs a wheelchair is not disadvantaged by being left out of PE lessons, a school consults a physiotherapist and devises special activities for the pupil to carry out in PE.

Schedule 14***: Educational charities and endowments***

Educational charities: paragraph 1

Effect

899. This paragraph provides for trust deeds or other instruments concerning educational charities which restrict available benefits to a single sex to be modified by a Minister of the Crown. This cannot be done within 25 years of the trust being created without the consent of the donor, or the donor's or testator's personal representatives. Applicants need to publish particulars of the proposal and invite representations for the Minister to consider before making the order.

Background

900. This paragraph replicates provisions in section 78 of the Sex Discrimination Act 1975. It is likely to happen when a single-sex school becomes co-educational, and so wants to enable both sexes to benefit from a particular charity connected with the school.

Example

• A single-sex (boys') grammar school now allows girls into its sixth form and wishes to modify a trust deed which offers scholarships and help with tuition for boys of the school wanting to go to university — so that it can also offer help to girls.

Educational endowments: paragraph 2*Effect*

901. A similar power to that in paragraph 1 is given to the Scottish Ministers to modify educational endowments administered in Scotland.

Schedule 15***: Associations: reasonable adjustments***

Effect

902. This Schedule explains how the duty to make reasonable adjustments in section 20 applies to associations. Paragraph 2 explains that the duty applies in respect of disabled members and guests

including prospective members and guests and that the association must comply with all three reasonable adjustment requirements. It describes the types of adjustments an association must make, stipulates what the duty does not require and provides further information on the meaning of "physical features". It is an anticipatory duty which means associations must anticipate the needs of disabled members and guests including prospective members and guests and make appropriate reasonable adjustments.

Background

903. This Schedule is designed to replicate the effect of similar provisions in the Disability Discrimination Act 1995.

Examples

- A private club with 30 members usually holds its annual dinner upstairs in a local restaurant. However, as there is no lift, the room is not accessible to two new disabled members who have severe difficulty in climbing stairs. Under the duty the club would need to think about changing the venue to a downstairs room to accommodate the new members. This is likely to be a reasonable adjustment for the club to make.
- A club has members who cannot read standard print. Under the duty it would need to think about providing information in large print and on audio tape for them. These are likely to be reasonable adjustments for the club to make.

Schedule 16***: Associations: exceptions***

904. Schedule 16 contains exceptions from the association provisions in Part 7 of the Act.

Single characteristic associations: paragraph 1

Effect

905. This paragraph allows an association whose main purpose is to bring together people who share a particular characteristic (such as a particular nationality, sexual orientation or a particular disability) to continue to restrict membership to such people, and impose similar restrictions on those who can exercise the rights of an associate, or who can be invited as guests.

906. It is however unlawful for an association to restrict its membership to people of a particular colour.

Background

907. An exception for associations which bring together people who share a particular protected characteristic was provided in previous legislation in relation to race and sexual orientation. This exception has been extended to cover all of the protected characteristics in line with the prohibition on discrimination.

Example

- A club for deaf people can restrict membership to people who are deaf and would not need to admit people with other disabilities, such as a blind person.

Health and safety: paragraph 2

Effect

908. This paragraph is designed to ensure that it is not unlawful for an association to treat a pregnant woman differently in the terms on which she is admitted as a member or is given access to benefits as a member if the association reasonably believes that to do otherwise would create a risk to her

health or safety and the association would take similar measures in respect of persons with other physical conditions. Equivalent provision is made in respect of associates and guests.

Background

909. Provisions making it unlawful for an association to discriminate against a pregnant woman have been introduced for the first time in this Act. The provisions in this paragraph, which are similar to those which apply in the provision of services to the public, are therefore also new.

Example

- A private members' gym may wish to restrict access to squash courts after a certain point in the pregnancy (for example, after 36 weeks).

Schedule 17***: Disabled pupils: enforcement***

Part 1*: Introductory*

910. This Schedule sets out the arrangements for making disability discrimination claims in respect of school pupils.

Part 2*: Tribunals in England and Wales*

Jurisdiction: paragraph 3

911. Disability discrimination claims in respect of school pupils are made to the First-tier Tribunal in England and to the Special Educational Needs Tribunal in Wales, unless they relate to admissions or exclusions. Claims are brought by the child's parent.

Time for bringing proceedings: paragraph 4

912. Claims need to be made within six months of conduct commencing. This period can be extended to nine months if the Equality and Human Rights Commission makes arrangements for conciliation in respect of disputes. In addition, tribunals could consider cases beyond this time limit.

Powers: paragraph 5

913. If a tribunal finds that a school has discriminated against a pupil, it can make any orders it sees fit, particularly in order to remove or reduce the problem. However, it may not award the payment of compensation.

Procedure: paragraph 6

914. The Welsh Ministers are given powers to make regulations to govern the procedure of claims heard by the Welsh Tribunal.

Part 3*: Tribunals in Scotland*

915. In Scotland the power to make procedural rules for the hearing of disability discrimination claims by the Additional Support Needs Tribunals for Scotland will be exercised by the Scottish Ministers.

Part 4*: Admissions and exclusions*

916. If the disability discrimination claim made is in respect of admissions to, or permanent exclusion from, a maintained school or an Academy, then the claim will be brought under independent education appeals panel arrangements as set out in education legislation, rather than going to the tribunals.

Background

917. This Schedule is designed to replicate the effect of provisions in the Disability Discrimination Act 1995.

Examples

• A school pupil is not allowed to join other children in the playground at break-times because of his wheelchair and his parents believe he is being discriminated against because of his disability. They are able to bring a claim against the school which is heard by the First-tier Tribunal (in England). The Tribunal rules in favour of the pupil and makes an order for the school to alter the practice which caused the discrimination and make arrangements for the pupil to join his peers at break time.

• A pupil is refused admission to a school and her parents believe that it is because of her disability and make a claim. The claim cannot be heard by the First-tier Tribunal and is heard by an independent education appeals panel under education legislation.

Schedule 18***: Public sector equality duty: exceptions***

Effect

918. This Schedule lists exceptions to the coverage of the public sector equality duty.

919. Paragraph 1 disapplies the equality duty with respect to age in relation to the education of pupils in schools and the provision of services to pupils in schools and in relation to children's homes.

920. Paragraph 2 disapplies the equality of opportunity limb of the equality duty in relation to immigration functions in respect of race (except as it includes “colour”), religion or belief and age.

921. Paragraph 3 disapplies the equality duty in respect of judicial functions or functions exercised on behalf of, or on the instructions of, a person exercising judicial functions. A judicial function includes judicial functions which are carried out by persons other than a court or tribunal, for example courts martial.

922. Paragraph 4 disapplies the equality duty in respect of any public functions (as that term is defined for the purposes of the Human Rights Act 1998) performed by the persons listed in sub-paragraph (2), or in relation to the functions listed in sub-paragraph (3).

923. Paragraph 5 contains a power for a Minister of the Crown by order to add, change or remove an exception to the scope of the equality duty. However, this power cannot be used to remove or limit the exceptions relating to judicial functions or those relating to Parliament, the Scottish Parliament, the National Assembly for Wales and the General Synod.

Background

924. This Schedule replaces the exception for immigration functions from the race duty in section 71A of the Race Relations Act. It also replaces sections 76A(3) and (4) of the Sex Discrimination Act 1976 and sections 49C and 49D of the Disability Discrimination Act 1995 relating to excepted bodies and functions and applies similar provision to the protected characteristics that did not previously have equality duties associated with them.

Examples

• A school will not be required to consider advancing equality of opportunity between pupils of different ages. Nor will it be required to consider how to foster good relations between pupils on different ages. But it will still need to have due regard to the need to eliminate

unlawful discrimination, advance equality of opportunity and foster good relations between pupils in respect of the other protected characteristics.

• The UK Border Agency, when taking immigration-related decisions, will not be required to have due regard to the need to advance equality of opportunity for people of different races, religious beliefs or age when taking those decisions. However, it will still be required to have due regard to the need to advance equality of opportunity for disabled people, for men and women, for people of all sexual orientations and transsexual people when making those decisions.

Schedule 19***: Public authorities***

Effect

925. This Schedule lists those public bodies which are subject to the public sector equality duty contained in section 149(1). It is divided into three Parts: public bodies generally; relevant Welsh bodies; and relevant Scottish bodies. There is provision for a fourth part to be added for cross-border Welsh and Scottish bodies. Subsection (2) of section 149 applies the public sector equality duty to other persons who are not listed in the Schedule, but who are carrying out public functions, but only with regard to the exercise of those functions. The powers in sections 153 and 154 to impose specific duties only apply to bodies listed in Schedule 19; they do not extend to persons who are subject to the public sector equality duty by virtue of subsection (2) of section 149.

Background

926. This Schedule uses as its starting point Schedule 1A to the Race Relations Act 1976.

Schedule 20***: Rail vehicle accessibility: compliance***

927. The provisions of this Schedule are tied to those of section 186 which provides for the Schedule to be repealed if not brought into force (either fully or to any extent) by 31 December 2010.

928. This Schedule was included in the Act because, during its passage through Parliament, the Department for Transport was consulting on draft regulations under section 46 of the Disability Discrimination Act 1995. These were prepared following a policy reappraisal which favoured a move away from compliance certification and civil enforcement powers for rail vehicle accessibility. The Government's preferred option, adoption of Health and Safety at Work etc Act 1974 enforcement powers with the Office of Rail Regulation being designated as enforcement authority, would make accessibility enforcement on light rail consistent with recent changes to accessibility enforcement on the main line rail system resulting from the introduction of new European standards which came into force in July 2008. The consultation period ended on 3 July 2009 but, in order not to pre-empt the outcome, the option to use compliance certification and civil enforcement powers was retained in the Act.

929. Consultation responses indicated that the Government's preferred option of non-commencement of this Schedule was widely supported by stakeholders. The Government therefore proceeded with the implementation of a package of secondary legislation under the Disability Discrimination Act 1995 which did not include compliance certification and replaced the originally envisaged civil enforcement regime with enforcement by the Office of Rail Regulation under their existing Health and Safety at Work etc Act 1974 powers. The enforcement provisions were contained in the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432) which came into force on 6 April 2010.

930. Government policy is therefore not to bring this Schedule into force. However, the provisions are still explained in detail below to assist the reader's understanding.

Paragraphs 1 to 4

931. These paragraphs introduce the concept of "compliance certification" into the rail vehicle accessibility regime. The effect would be to require prescribed rail vehicles to have a rail vehicle accessibility compliance certificate (which certifies compliance with accessibility standards).

Rail vehicle accessibility compliance certificates: paragraph 1

Effect

932. This paragraph provides for the introduction of compliance certification into the rail vehicle accessibility regime by prohibiting a regulated rail vehicle from being used in passenger service unless a valid compliance certificate has been issued for that rail vehicle. Regulations would be required to set out which rail vehicles would require a compliance certificate.

933. It also contains provisions to enable a penalty to be paid to the Secretary of State should a regulated rail vehicle, which is required to have a compliance certificate, be operated in passenger service without one.

934. In circumstances where the Secretary of State has refused to issue a compliance certificate, provisions are made for the applicant to ask for a review of that decision, within a maximum time period to be set in regulations, taking into account any written representations that may be presented by the applicant. A fee could be charged to recover the costs of undertaking such a review.

Background

935. This paragraph replicates the provisions of sections 47A and 47D of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Regulations as to compliance certificates: paragraph 2

Effect

936. This paragraph enables regulations to be made setting out how the compliance certification regime introduced by paragraph 1, would operate in practice. For example, the regulations could specify who may apply for a compliance certificate, the conditions to which they would be subject and the period for which the conditions would remain in force.

Background

937. This paragraph replicates some of the provisions of section 47B(1) to (3) of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Regulations as to compliance assessments: paragraph 3

Effect

938. This paragraph provides for regulations to be made for the undertaking of compliance assessments, including provision as to who may carry out assessments, and which may provide that assessments be carried out by persons appointed by the Secretary of State (to be known as an "appointed assessor").

939. Sub-paragraph (3) enables regulations to make provision about the appointment of appointed assessors, for them to charge fees in connection with their work, to prescribe procedures and for

the referral of disputes between an appointed assessor and a person who requested a compliance assessment.

Background

940. This paragraph replicates the remaining provisions of section 47B of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Fees in respect of compliance certificates: paragraph 4

Effect

941. This paragraph enables regulations to be made setting out the fees which the Secretary of State may charge to recover the costs of carrying out certain administrative tasks relating to the issuing of compliance certificates. Any fees which are received must be paid into the Consolidated Fund. Before making any regulations under this paragraph, the Secretary of State must consult representative organisations.

Background

942. This paragraph replicates the provisions of section 47C of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Paragraphs 5 to 12

943. Paragraphs 5 to 12 make provision for a civil enforcement regime which would enable penalties to be levied for non-compliance with rail vehicle accessibility regulations.

Penalty for using rail vehicle that does not conform with accessibility regulations: paragraph 5

Effect

944. This paragraph sets out the procedure to be followed by the Secretary of State in respect of an operator of a regulated rail vehicle which appears not to comply with the construction requirements of rail vehicle accessibility regulations. The procedure would involve the issue of "improvement" and "final" notices and, if the vehicle is used despite still being non-compliant with those elements of rail vehicle accessibility regulations with which it is required to conform, the Secretary of State could impose a penalty. The various timescales leading up to the imposition of the penalty would have to be set out in regulations.

Background

945. This paragraph replicates the provisions of section 47E of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Penalty for using rail vehicle otherwise than in conformity with accessibility regulations: paragraph 6

Effect

946. This paragraph makes similar provisions to paragraph 5 but in respect of vehicles used in a way which does not comply with the operational, rather than technical, requirements of accessibility regulations. For example, a regulated rail vehicle may have appropriate equipment to assist a disabled person in getting on or off the vehicle, such as a lift or ramp, but no member of staff is available to operate it.

Background

947. This paragraph replicates the provisions of section 47F of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Inspection of rail vehicles: paragraph 7

Effect

948. This paragraph sets out powers of inspection, to be available where the Secretary of State has reasonable grounds for suspecting that a regulated rail vehicle does not conform with those provisions of accessibility regulations with which it is required to conform. The paragraph also grants similar powers of inspection following the issuing of notices under paragraph 6. “Inspectors” would be empowered to examine and test such rail vehicles and to enter premises at which it is believed they are kept. If an inspector was intentionally obstructed in the exercise of these powers by an operator, or someone acting on the operator's behalf, the Secretary of State could in certain circumstances impose a penalty on the operator.

Background

949. This paragraph replicates the provisions of section 47G of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Supplementary powers: paragraph 8

Effect

950. This paragraph would allow the Secretary of State to issue a notice to a rail vehicle operator requiring it to provide information by a specified deadline to enable a rail vehicle which is described in that notice to be identified. A penalty could be imposed on the recipient of such a notice if it fails to provide the information required by the deadline, which must be a minimum of 14 days from the date on which the notice was given.

951. Provision is also included to incentivise compliance with notices served under paragraphs 5 or 6 (notices requiring rail operators to make vehicles, or their use, compliant with accessibility regulations). Operators could be required to state what steps they are taking to comply with such notices.

952. In default of providing this information, the Secretary of State is empowered to proceed to the “further notice” stage under paragraphs 5 or 6, a precursor to charging a penalty for non-compliance.

Background

953. This paragraph replicates the provisions of section 47H of the Disability Discrimination Act 1995 as inserted by the Disability Discrimination Act 2005 but not yet in force.

Penalties: amount, due date and recovery: paragraph 9

Effect

954. This paragraph makes provision in relation to the amount, due date and recovery of penalties imposed under paragraphs 1 and 5 to 8. It stipulates that the maximum penalty cannot exceed the amount prescribed in regulations, or 10 per cent of the turnover of the rail vehicle operator subject to the penalty, whichever is the lesser amount. “Turnover” must be determined in accordance with provisions set out in regulations and the Secretary of State is able to take court proceedings to recover any penalty payable to him. All penalties must be paid into the Consolidated Fund.

Background

955. This paragraph replicates section 47J (1) to (7) of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force. The other aspects of section 47J are replicated at paragraph 10.

Penalties: code of practice: paragraph 10

Effect

956. This paragraph would require the Secretary of State to issue a code of practice to set out matters that must be considered in determining the level of a penalty. The Secretary of State would be required to take account of the code when imposing a penalty under this Schedule or in considering any objections received to the imposition of a penalty. A court must also take account of the code in considering an appeal against a penalty (see paragraph 12).

957. Before issuing either the first or a revised code of practice, the Secretary of State would have to lay a draft before Parliament, and could bring it into operation by order.

Background

958. This paragraph replicates the remaining provisions of section 47J of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Penalties: procedure: paragraph 11

Effect

959. This paragraph sets out the procedure for the imposition of penalties under this Schedule. In particular it specifies the information which the Secretary of State would have to provide when notifying a rail vehicle operator that it is liable to a penalty, and outlines the operator's right to object to the imposition, or amount of, a penalty. Should an objection be received, the Secretary of State would be under an obligation to consider the objection and take appropriate action.

Background

960. This paragraph replicates the provisions of section 47K of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Penalties: appeals: paragraph 12

Effect

961. This paragraph sets out the right of an operator, on whom a penalty has been imposed, to appeal to a court on the grounds that either it is not liable to a penalty, or that the amount is too high. An appeal under this section is a re-hearing of the Secretary of State's original decision to impose a penalty, and may be brought whether or not the operator has given a notice of objection (under paragraph 11), or the Secretary of State has already reduced a penalty.

Background

962. This paragraph replicates the provisions of section 47L of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Forgery, etc.: paragraph 13

Effect

963. This paragraph would make it a criminal offence for a person, with intent to deceive, to forge, alter, use, or lend a compliance certificate, to allow one to be used by another person, to make or have possession of a document which closely resembles one, or to knowingly make a false statement for the purpose of obtaining one.

964. It would also make it a criminal offence for a person, with intent to deceive, to impersonate an inspector authorised by the Secretary of State under paragraph 7.

Background

965. This paragraph replicates elements of the provisions of section 49 of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Regulations: paragraph 14

966. This paragraph provides that any power to make regulations provided for in the Schedule is exercisable by the Secretary of State.

Interpretation: paragraph 15

Effect

967. This paragraph defines what is meant by the terms “compliance assessment”, “compliance certificate” and “operator” in relation to this Schedule.

968. Under sub-paragraph (2), if a rail vehicle to which this Schedule applies is the subject of an exemption order issued under section 183, then a reference in this Schedule to a rail vehicle accessibility requirement would not include a requirement from which that vehicle is exempt.

Background

969. This paragraph replicates elements of the provisions of section 47M of the Disability Discrimination Act 1995 inserted by the Disability Discrimination Act 2005 but not yet in force.

Schedule 21***: Reasonable adjustments: supplementary***

Effect

970. The provisions in this Schedule apply to earlier Schedules in the Act dealing with reasonable adjustments where a person providing services or carrying out public functions, an employer, an education provider or an association is required to consider reasonable adjustments to premises which it rents and would require landlord consent to do so. It sets out what steps it is reasonable for a person to take in discharging a duty to make reasonable adjustments in a case where a binding agreement requires that consent must be obtained from a third party before that person may proceed to make the adjustment to let premises or the common parts of let premises.

971. Where a person wishes to make an adjustment in order to fulfil a duty to make reasonable adjustments but is unable to do so, the Schedule enables the adjustment to be made by deeming the tenancy to include certain provisions. For example the tenancy may have effect as if a tenant is able to make alterations with the consent of the landlord.

972. Where a landlord has refused consent to an alteration or gives consent subject to a condition, the person requesting the consent (or a disabled person who has an interest in the alteration being made) can refer the refusal (or the conditional consent) to a county or sheriff court.

973. The Schedule also provides for a landlord to be joined as a party to proceedings before an employment tribunal, county or sheriff court where a disabled person is bringing an action under the reasonable adjustment duty.

974. The Schedule provides a power to make regulations about matters such as when a landlord is taken to have refused consent, when such refusal is unreasonable and when it is reasonable. Words and phrases used in the Schedule are interpreted consistently with the parts of the Act to which it cross-refers.

Background

975. This Schedule replaces similar provisions in the Disability Discrimination Act 1995. It also applies in relation to the new duty to make alterations to the physical features of common parts of let and commonhold residential premises in England and Wales.

Examples

- An insurance company works from a rented two storey building and has plans to install a stair lift to make the building more accessible to employees with mobility impairments. The terms of the lease preclude alterations to the staircase. The company writes to the landlord for permission to make the alteration. The landlord consults the superior landlord who agrees to waive this condition of the lease thereby allowing the installation of the chair lift to proceed. However, as a condition of consent, the landlord requires that the chair lift is removed on surrender of the lease.
- A disabled tenant asks to have automated doors put in at the entrance of her block of flats. Her landlord would like to agree but is unable to do so as he is a tenant of a superior landlord who does not agree to the alteration. The tenant's remedy is to bring an action against her landlord in the county court where she can ask that the superior landlord is brought in as an additional party to the case. The court can order the alteration to be made and order the superior landlord to pay compensation if it finds he has acted unreasonably in refusing his consent.

Schedule 22***: Statutory provisions***

Statutory authority: paragraph 1

Effect

976. Paragraph 1 of this Schedule provides exceptions from several Parts of the Act, in relation to the protected characteristics of age, disability, religion or belief, sex and sexual orientation, for things done in accordance with what is, or may in future be, required because of some other law.

Background

977. Paragraph 1 replaces the separate exceptions for statutory authority in previous legislation. However, the exception in section 41(1) of the Race Relations Act 1976, which excused certain race discrimination done under statutory authority in areas with which European law is not concerned, has been removed but not replaced.

Examples

- An employer can lawfully dismiss a disabled employee if health and safety regulations leave him with no other choice.
- An employer can lawfully refuse to employ someone to drive a large goods vehicle who is not old enough to hold a LGV licence.

Protection of women: paragraph 2

Effect

978. This paragraph allows differential treatment based on sex or pregnancy and maternity at work which is required to comply with laws protecting women who are pregnant, who have recently given birth or against risks specific to women.

Background

979. The paragraph replaces separate exceptions for the protection of women in the Sex Discrimination Act 1975 and in the Employment Act 1989.

Examples

- A care home cannot lawfully dismiss, but can lawfully suspend, a night-shift worker because she is pregnant and her GP has certified that she must not work nights.
- It may be lawful for a road haulier to refuse to allow a woman lorry driver to transport chemicals that could harm women of child-bearing age.

Educational appointments, etc: religious belief: paragraphs 3 and 4

Effect

980. Paragraph 3 provides an exception from the provisions on sex or religious discrimination for certain posts in schools or institutions of further or higher education where their governing instrument requires the head teacher or principal to be of a particular religious order, or that a particular academic position must be held by a woman, or where the legislation or instrument which establishes a professorship requires the holder to be an ordained priest. In the case of academic positions reserved to women, the exception only applies where the governing instrument was made before 16 January 1990.

981. There is an order-making power conferred on a Minister of the Crown to withdraw the exception either in relation to a particular institution or a class of institutions.

982. Paragraph 4 provides that it is not unlawful discrimination for schools which have a religious character or ethos (often referred to as faith schools) to do certain things which are permitted by the School Standards and Framework Act 1998. This includes:

- allowing teachers who have been appointed to give religious education to be dismissed if they fail to give it competently;
- allowing a faith school to take account of religious considerations when appointing a head teacher; and
- allowing a voluntary aided school or an independent school to take account of religious considerations in employment matters.

Background

983. Paragraph 3 is designed to replicate the effect of provisions in section 5 of the Employment Act 1989.

984. Universities restrict Canon Professorships to certain religions since such posts can only be held by ordained Ministers.

985. Paragraph 4 is designed to replicate the effect of regulation 39 of the Employment Equality (Religion or Belief) Regulations 2003.

Examples

• Voluntary controlled and foundation schools with a religious ethos may appoint a head teacher on the basis of his ability and fitness to preserve and develop the religious character of the school.
• Voluntary aided schools with a religious ethos can restrict employment of teachers to applicants who share the same faith. For example most Catholic schools may require that applicants to teaching positions be of the Catholic faith.

Crown employment, etc.: paragraph 5

Effect

986. Paragraph 5 allows restrictions on the employment of foreign nationals in the civil, diplomatic, armed or security and intelligence services and by certain public bodies. It also allows restrictions on foreign nationals holding public offices.

Background

987. The paragraph replaces similar provisions in the Race Relations Act 1976.

Examples

• Posts in the security and intelligence services are automatically reserved for UK nationals.
• People who are neither British, Commonwealth or Irish citizens nor British protected persons are generally prohibited from serving in the armed forces, with the notable exception of Gurkhas.

Schedule 23***: General exceptions***

Acts authorised by statute or the executive: paragraph 1

Effect

988. This paragraph allows direct nationality discrimination and indirect race discrimination on the basis of residency requirements where the discrimination is required by law, Ministerial arrangements or Ministerial conditions.

Background

989. The paragraph replaces a similar exception in the Race Relations Act 1976.

Examples

• The points-based system which replaced the former work permit arrangements can discriminate on the basis of nationality in determining whether migrants from outside the European Economic Area and Switzerland should be given permission to work in the United Kingdom.
• The NHS can charge some people who are not ordinarily resident in the United Kingdom for hospital treatment they receive here.
• Overseas students at universities in England and Wales can be required to pay higher tuition fees than local students (there are no tuition fees in Scotland).

Organisations relating to religion or belief: paragraph 2

Effect

990. Paragraph 2 provides an exception for religious or belief organisations with regard to the provisions in the Act relating to services and public functions, premises and associations.

991. The types of organisation that can use this exception are those that exist to: practice, advance or teach a religion or belief; allow people of a religion or belief to participate in any activity or receive any benefit related to that religion or belief; promote good relations between people of different religions or beliefs. Organisations whose main purpose is commercial cannot use this exception.

992. The exception allows an organisation (or a person acting on its behalf) to impose restrictions on membership of the organisation; participation in its activities; the use of any goods, facilities or services that it provides; and the use of its premises. However, any restriction can only be imposed by reference to a person's religion or belief or sexual orientation.

993. In relation to religion or belief, the exception can only apply where a restriction is necessary to comply with the purpose of the organisation or to avoid causing offence to members of the religion or belief whom the organisation represents.

994. In relation to sexual orientation, the exception can only apply where it is necessary to comply with the doctrine of the organisation or in order to avoid conflict with the strongly held convictions of members of the religion or belief that the organisation represents. However, if an organisation contracts with a public body to carry out an activity on that body's behalf then it cannot discriminate because of sexual orientation in relation to that activity.

995. The exception also enables ministers of religion to restrict participation in the activities that they carry out in the performance of their functions as a minister and access to any goods, facilities or services they provide in the course of performing those functions.

Background

996. This paragraph replicates the effect of similar provisions in Part 2 of the Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007.

Examples

- A Catholic seminary can restrict places for students to those of the Catholic faith. This would not be unlawful religion or belief discrimination.
- A Church refuses to let out its hall for a Gay Pride celebration as it considers that it would conflict with the strongly held religious convictions of a significant number of its followers. This would not be unlawful sexual orientation discrimination.
- A religious organisation which has a contract with a local authority to provide meals to elderly and other vulnerable people within the community on behalf of the local authority cannot discriminate because of sexual orientation.

Communal accommodation: paragraph 3

Effect

997. This paragraph provides an exception to the general prohibition of sex and gender reassignment discrimination. It allows communal accommodation to be restricted to one sex only, as long as the accommodation is managed as fairly as possible for both men and women. It sets out factors which must be considered when restricting communal accommodation to one sex only, and provides that discriminatory treatment of transsexual people must be objectively justified.

998. Communal accommodation is defined as residential accommodation which includes shared sleeping accommodation which should only be used by members of one sex for privacy reasons.

999. Where such accommodation is refused in the field of work, or a benefit linked to such accommodation is refused, alternative arrangements must be made where reasonable so as to compensate the person concerned.

Background

1000. This paragraph replaces similar provisions in the Sex Discrimination Act 1975. The scope of the exception has been extended from employment, education and services to all fields.

Examples

- A hostel only accepts male guests. It is not unlawful for it to refuse to accept female guests because the majority of the bedrooms are shared and there is only one communal bathroom.
- At a worksite the only available sleeping accommodation is communal accommodation occupied by men. A woman employee who wishes to attend a training course at the worksite is refused permission because of the men-only accommodation. Her employer must make alternative arrangements to compensate her where reasonable, for example by arranging alternative accommodation or an alternative course.

Training provided to non-EEA residents, etc: paragraph 4

Effect

1001. Paragraph 4 allows less favourable treatment because of a person's nationality in relation to training and associated benefits that are intended for people who do not live in an EEA state, as long as the training provider believes that the person will not subsequently use the skills obtained in Great Britain. This means that an EEA resident cannot claim to have been discriminated against in relation to this type of activity.

1002. Employment or contract work can be covered by this exception where its sole or main purpose is the provision of training in skills. Special provision is made in relation to defence training to reflect current arrangements to help provide other nations with the skills to assist the United Kingdom in addressing global conflict and supporting the United Kingdom on multi-national operations.

Background

1003. The main purpose of this provision is to enable people from developing countries to acquire vital skills which may not be available in their country of residence. It replaces similar provisions in the Race Relations Act 1976. The general rule on non-residence has been extended from Great Britain to include all EEA states, except in relation to defence training which is provided to forces from other EEA states as well as those outside the EEA.

Example

- It is not unlawful for a company specialising in sustainable irrigation that offers a training scheme in Great Britain for people who live in Mozambique, who then return home to put the skills learned into practice, to refuse to offer the same training to someone who lives in Great Britain.

Schedule 24***: Harmonisation: exceptions***

Effect

1004. This Schedule sets out the provisions of the Act to which the power in section 203 does not apply. These are largely provisions where all the equality provisions are clearly governed by European law or where power exists under other legislation to deal with any anomalies that may

otherwise arise. Accordingly it will not be possible to amend these provisions using the power in section 203 to bring them into line, where needed, with changes in European law.

Schedule 25***: Information society services***

Effect

1005. This Schedule ensures that the provisions of the Act do not conflict with the requirements of European Directive 2000/31/EC of 8 June 2000, known as the E-Commerce Directive. The Directive concerns information society services, which are services provided from a distance by means of electronic equipment to businesses and consumers such as on-line shopping, direct marketing and advertising. It provides that where an information society service provider is established in Great Britain, the provisions of the Act apply to anything done by it in providing the information society service in another EEA state other than the United Kingdom. By contrast, where the provider is established in an EEA state other than the United Kingdom, then the Act does not apply to anything done by the provider in providing the information society service. Various exceptions to the provisions of the Act are provided in respect of intermediary internet service providers who carry out activities essential for the operation of the internet

Background

1006. These provisions are new. They are necessary to ensure the United Kingdom correctly transposes the Directive.

Examples

- An on-line holiday company established in Great Britain refuses to take bookings for shared accommodation from same-sex couples. In this instance a case of direct sexual orientation discrimination could be brought in the British courts regardless of whether the complainant was in the United Kingdom or another EEA member state.
- An on-line retailer, which provides tickets to major sporting events, provides discounts to large groups of men but not women when booking hospitality packages for the forthcoming football world cup. The on-line retailer is established in Germany, so in this instance a case of direct sex discrimination would have to be brought in the German courts regardless of whether the complainant was in the United Kingdom or another EEA member state.

Schedule 26***: Amendments***

Effect

1007. This Schedule sets out a number of amendments to the following acts: the Local Government Act 1988, the Employment Act 1989 and the Equality Act 2006. These amendments are necessary to ensure that these Acts refer accurately to the new provisions contained in the Act and work properly with those new provisions. For example, where a new term or a new definition is used in the Act and another Act refers to the same or similar term which is contained in legislation which is being repealed, that other Act needs to be amended to refer to the new term or definition. In addition to the amendments set out in this Schedule, sections 216 and 207 used together provide a power to make similar consequential amendments to other primary legislation.

Local Government Act 1988: paragraphs 1 to 4

Effect

1008. This paragraph amends Part 2 of the Local Government Act 1988 (“the 1988 Act”) so as to provide that the public bodies to which that Part applies may exercise a function by reference to a

non-commercial matter to the extent that the authorities consider it necessary or expedient to do so in order to comply with the equality duty.

Background

1009. Section 17 of the 1988 Act prevents public bodies to which that Part applies from introducing certain non-commercial matters into the procurement process; these are set out at subsection 5 of that Act. Section 18 of the 1988 Act ensured that section 17 of that Act did not restrict those authorities from complying with their duties under the Race Relations Act 1976. It achieved this by permitting those authorities to ask six approved questions of their contractors.

1010. The Local Government Best Value (Exclusion of Non-commercial Considerations) Order 2001 (S.I. 2001/9090) modified sections 17(5)(a) and (d) of the 1988 Act so that matters relating to the terms and conditions of employment etc. of a contractor's workforce, and the conduct of contractors or their workers in industrial disputes cease to be non-commercial matters only so far as necessary or expedient to permit or facilitate compliance with the best value requirements of the Local Government Act 1999 or the Transfer of Undertakings (Protection of Employment Regulations) 1981. Similar amendments were made for Scotland and Wales.

Examples

- A local authority which is not a Best Value Authority, which was previously permitted to ask only the six approved questions of its contractors on the race duty, will now be able to consider broader issues on equality when contracting for public supply or works as the authority sees fit in order to comply with the requirements of the public sector equality duty.
- A local authority wants to contract with a private company. It will be able to take into account the ethnic make-up of the workforce of that company, the behaviour of that company during an industrial dispute, and any other issue which is defined as non-commercial, when deciding to award the contract, but only if it considers it is necessary to do so in order to meet the requirements of the public sector equality duty.

Equality Act 2006: paragraph 13

Effect

1011. This amendment to the Equality Act 2006 allows the Equality and Human Rights Commission to use its enforcement powers, such as the power to conduct investigations and the power to apply for an injunction, in relation to unlawful direct and indirect discrimination under the Act, including the making of arrangements which would result in direct discrimination, if applied to an individual. It can also use its powers in relation to discrimination arising from disability and discrimination in cases where the relationship between the parties has ended; when an employer asks job applicants prohibited enquiries about disability and health; and to enforce any diversity reporting requirements imposed on political parties using the power in section 106.

1012. It allows the Equality and Human Rights Commission to use its powers whether or not it knows or suspects that an individual has been affected by the discrimination. It makes clear that nothing in the Equality Act 2006 affects an individual's right to bring a claim under the Act.

Background

1013. This amendment partially replaces provisions in previous discrimination law relating to discriminatory practices and discriminatory advertisements. The substantive prohibition against discriminatory practices and advertisements is no longer required as it is covered elsewhere in the

Act. This amendment does however extend enforcement by the Equality and Human Rights Commission to cover both direct and indirect discrimination because of any of the protected characteristics, as well as discrimination arising from disability. It also extends the use of the Commission's existing powers to situations where employers ask job applicants prohibited enquiries about disability and health, and to any diversity reporting requirements that may be imposed on political parties.

Examples

• A golf club operates an informal but well-known policy of not offering membership to people from ethnic minority communities, which discourages people from these communities from applying. The Equality and Human Rights Commission may investigate this unofficial discriminatory policy even though it is not aware of particular individuals directly affected by it.

• A Bed and Breakfast (B&B) advertises for customers but includes a statement that it does not welcome people from the Gypsy and Traveller communities. Even though the Equality and Human Rights Commission can take action, an individual who is discouraged from staying at the B&B can still bring a claim in his or her own right.

Schedule 27***: Repeals and revocations***

Effect

1014. This Schedule lists the legislative provisions which will cease to have effect once the relevant provisions in the Act come into force.

Schedule 28***: Index of defined expressions***

Effect

1015. This Schedule lists the terms and expressions which are defined in the Act and refers the reader to the provision in the Act where the definition can be found.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	24 April 2009	Vol. 491 Col. 476
Second Reading	11 May 2009	Vol. 492 Cols. 553–655
Committee	02 June 2009	Hansard Public Bill Committee
	02 June 2009	Equality Bill
	09 June 2009	
	09 June 2009	
	11 June 2009	
	11 June 2009	
	16 June 2009	
	16 June 2009	
	18 June 2009	
	18 June 2009	

Stage	Date	Hansard Reference
	23 June 2009	
	23 June 2009	
	25 June 2009	
	25 June 2009	
	30 June 2009	
	30 June 2009	
	02 July 2009	
	02 July 2009	
	07 July 2009	
	07 July 2009	
	(20 Sittings)	
Report and Third Reading	02 Dec 2009	Vol. 501. Cols. 1111–1233
House of Lords		
Introduction	3 December 2009	Vol. 715 Col. 842
Second Reading	15 December 2009	Vol. 715 Cols. 1404–1418
Committee	11 January 2010	Vol. 716 Cols. 298–351 and 367–392
	13 January 2010	
	19 January 2010	Vol. 716 Cols. 518–566 and 574–600
	25 January 2010	
	27 January 2010	Vol. 716 Cols. 878–949 and 964–986
	09 February 2010	Vol. 716 Cols. 1197–1266 and 1278–1290
		Vol. 716 Cols. 1415–1472 and 1487–1512
		Vol. 717 Cols. 634–660 and 689–724
Report	02 March 2010	Vol. 717 Cols. 1326 – 1442 and 1408 – 1414
Third Reading	23 March 2010	Vol. 718 Cols. 851 – 873
Commons Consideration of Lords Amendments	06 April 2010	Vol. 508 Cols. 926–942
Royal Assent	08 April 2010	House of Lords Vol. 718 Cols. 1738–1740
		House of Commons Vol. 508 Cols. 1256–1258

Modifications

Provision	Modification	Notes	Further Information
Pt 2 c. 2 s. 13(1)	Equality Act 2010 c. 15, Sch. 3(5) para. 22(5)	Modified in relation to gender reassignment discrimination	Pt 3 s. 31
Pt 2 c. 2 s. 20(3)	Equality Act 2010 c. 15, Sch. 15 para. 2(2)	Modified in relation to disabled persons who are, or are seeking to become or might wish to become, members, are associates, or are, or are likely to become, guests	
Pt 2 c. 2 s. 20(4)	Equality Act 2010 c. 15, Sch. 2 para. 2(3)	Modified where a duty to make reasonable adjustments is imposed on an association (A) by 2010 c.15 Pt 2	
	Equality Act 2010 c. 15, Sch. 15 para. 2(2)	Modified in relation to disabled persons who are, or are seeking to become or might wish to become, members, are associates, or are, or are likely to become, guests	
	Equality Act 2010 c. 15, Sch. 15 para. 2(3)	Modified where a duty to make reasonable adjustments is imposed on an association (A) by 2010 c.15 Pt 2	Pt 7 s. 107
Pt 2 c. 2 s. 20(5)	Equality Act 2010 c. 15, Sch. 15 para. 2(2)	Modified in relation to disabled persons who are, or are seeking to become or might wish to become, members, are associates, or are, or are likely to become, guests	
Pt 5 c. 1 s. 41(1)(b)	Equality Act 2010 c. 15, Sch. 9(1) para. 6(7)	Modified in relation to sex	
Pt 5 c. 1 s. 43(3)(a)	Mobile Homes (Wales) Act 2013 anaw. 6, Sch. 5 para. 9	Modified in relation to temporary reduction of maximum penalties	
Pt 11	Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012/2734, reg. 6	Modified in relation to a Part 2 panel and the members of such a panel, an English Part 3 panel and the members of such a panel, and a Welsh Part 3 panel and the members of such a panel	reg. 3reg. 4reg. 5Sch. 1(1) para. 6Sch. 1(2) para. 21Sch. 1(3) para. 37
Pt 11 c. 1 s. 149	Equality Act 2010 c. 15, Sch. 18 para. 2(1)	Modified in relation to the exercise of immigration and nationality functions	Pt 11 c. 1 s. 149
Pt 12 c. 4 s. 188	Equality Act 2010 c. 15, Sch. 20 para. 13(1)	Modified in relation to rail vehicle accessibility: compliance	
Sch. 3(1) para. 2	Scotland Act 2012 c. 11, Pt 2 s. 12(4)	Modified in relation to a reference to the Scottish Government	
Sch. 6 para. 2	Scotland Act 2012 c. 11, Pt 2 s. 12(4)	Modified in relation to a reference to the Scottish Government	
Sch. 21 para. 3	Equality Act 2010 (Disability) Regulations 2010/2128, Pt 4 reg. 14(2)	Modified in relation to any case where the occupier occupies premises under a sub-tenancy	

Sch. 21 para. 3(3A)	Equality Act 2010 (Disability) Regulations 2010/2128, Pt 4 reg. 14(3)	Deemed to be inserted in relation to any case where the occupier occupies premises under a sub-tenancy	
Sch. 21 para. 4(1)	Equality Act 2010 (Disability) Regulations 2010/2128, Pt 4 reg. 14(2)	Modified in relation to any case where the occupier occupies premises under a sub-tenancy	
Sch. 21 para. 4(2A)	Equality Act 2010 (Disability) Regulations 2010/2128, Pt 4 reg. 14(4)	Deemed to be inserted in relation to any case where the occupier occupies premises under a sub-tenancy	
Sch. 21 para. 5	Equality Act 2010 (Disability) Regulations 2010/2128, Pt 4 reg. 14(5)	Modified in relation to any case where the occupier occupies premises under a sub-tenancy	
Sch. 22 para. 1	Scotland Act 2012 c. 11, Pt 2 s. 12(4)	Modified in relation to a reference to the Scottish Government	

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