

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 16: General and Miscellaneous**

#### *Schedule 3: Services and public functions: exceptions*

#### **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 belief-related 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.