

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

#### *Schedule 12: Further and higher education exceptions*

#### **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**

*These notes refer to the Equality Act 2010 (c.15)  
which received Royal Assent on 8 April 2010*

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.