

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 16: General and Miscellaneous

#### *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.

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

- 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.