

Status: Point in time view as at 27/01/2022.

Changes to legislation: Equality Act 2010, SCHEDULE 23 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 23

Section 196

GENERAL EXCEPTIONS

Acts authorised by statute or the executive

- 1 (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 Information

- II** [Sch. 23 para. 1](#) wholly in force at 1.10.2012; [Sch. 23](#) not in force at Royal Assent see [s. 216](#); [Sch. 23](#) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(14\)\(e\)](#) (with [art. 15](#)); [Sch. 23](#) in force for remaining purposes at 1.10.2012 by [S.I. 2012/1569](#), [art. 3\(g\)](#)

Organisations relating to religion or belief

- 2 (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

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- (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.
- [^{F1}(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—

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- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
 - [
 - ^{F2}(aa) to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
 - (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [^{F3}or that it is between two persons of the opposite 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;
 - [
 - ^{F4}(aa) to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
 - (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [^{F5}or that it is between two persons of the opposite 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)[^{F6}, (1A)] 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.]
- (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).

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Textual Amendments

- F1** Sch. 23 para. 2(9A)-(9D) inserted (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 19(6)**
- F2** Sch. 23 para. 2(9A)(aa) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(a)(i)**
- F3** Words in Sch. 23 para. 2(9A)(b) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(a)(ii)**
- F4** Sch. 23 para. 2(9B)(aa) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(b)(i)**
- F5** Words in Sch. 23 para. 2(9B)(b) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(b)(ii)**
- F6** Word in Sch. 23 para. 2(9C) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(c)**

Commencement Information

- I2** Sch. 23 para. 2 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(14)(e)** (with **art. 15**); Sch. 23 in force for remaining purposes at 1.10.2012 by S.I. 2012/1569, **art. 3(g)**

Communal accommodation

- 3 (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—

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- (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 Information

- I3** Sch. 23 para. 3 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(14)(e) (with art. 15); Sch. 23 in force for remaining purposes at 1.10.2012 by S.I. 2012/1569, art. 3(g)

Training provided to non-^{F7}... residents, etc.

Textual Amendments

- F7** Word in Sch. 23 para. 4 heading omitted (31.12.2020) by virtue of The Equality (Amendment and Revocation) (EU Exit) Regulations 2019 (S.I. 2019/305), regs. 1, 5(9)(a); 2020 c. 1, Sch. 5 para. 1(1)

- 4 (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 [^{F8}Great Britain].
- (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—

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^{F9}(a)

(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.

Textual Amendments

- F8** Words in Sch. 23 para. 4(2) substituted (31.12.2020) by [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(9)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Sch. 23 para. 4(5)(a) omitted (31.12.2020) by virtue of [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(9)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I4** Sch. 23 para. 4 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), **art. 2(14)(e)** (with [art. 15](#)); Sch. 23 in force for remaining purposes at 1.10.2012 by [S.I. 2012/1569](#), [art. 3\(g\)](#)

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