

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.

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
 - (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—

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- (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.
- (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).

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—
- (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—

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- (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.

Training provided to non-EEA residents, etc.

- 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 an EEA state.
- (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) the reference in sub-paragraph (2) to an EEA state were a reference to Great Britain, and
 - (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.